

**NEW YORK STATE
PUBLIC SERVICE COMMISSION**

Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of New York State Electric & Gas Corporation for Electric Service	25-E-0375
Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of New York State Electric & Gas Corporation for Gas Service	25-G-0378
Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Rochester Gas and Electric Corporation for Electric Service	25-E-0379
Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Rochester Gas and Electric Corporation for Gas Service	25-G-0380

Initial Brief of “Consolidated Elected Officials”

April 2, 2026

Office of Assemblymember Chris Burdick

Office of Assemblymember Patrick Burke

Office of Assemblymember Sarah Clark

Office of Assemblymember Paula Elaine Kay

Office of Assemblymember Anna Kelles

Office of State Senator Jeremy Cooney

Office of State Senator Shelley Mayer

Westchester County – Executive Kenneth W. Jenkins and the Westchester County Board of Legislators

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I. INTRODUCTION

A. Overview

The Offices of Assemblymember Chris Burdick, Assemblymember Patrick Burke, Assemblymember Sarah Clark, Assemblymember Paula Elaine Kay, Assemblymember Anna Kelles, State Senator Jeremy Cooney, State Senator Shelley Mayer, and the County of Westchester (County Executive Kenneth W. Jenkins and the Westchester County Board of Legislators), collectively “Consolidated Elected Officials” (CEO), hereby submit our initial brief in these proceedings. As elected officials representing New York State Electric & Gas Corporation (NYSEG) and Rochester Gas & Electric Corporation (RG&E) customers across the state, we have heard over and over again from our constituents that their utility bills are increasingly unaffordable. In addition to ever-increasing costs, our constituents have dealt with unreliable service and inattentive, ineffective customer service. We joined these proceedings to represent their interests.¹

We urge the Administrative Law Judges (ALJs) to carefully scrutinize the record in this case, to listen to the voices of our constituents at the public hearings,² and to address the concerns of ratepayers who are facing skyrocketing bills with no relief in sight. We urge the ALJs to review every penny of expenditures, and to limit company profits to the absolute minimum necessary for safe and reliable service. We urge the ALJs, in their recommended decision, and the Public Service Commission (PSC), in its final determination, to prioritize the right of New Yorkers to utility rates that they can afford.

¹ Some of the parties joining this brief are parties to the NYSEG rate cases only, others are parties to the RG&E rate cases only. We jointly sign on to this brief to address issues of common concern.

² See NYSEG and RG&E Rate Cases 25-E-0375 et al., Public Statement Hearing Transcripts, available at <https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterSeq=86585&MNO=25-E-0379>.

B. Procedural History

NYSEG and RG&E, collectively, “the Companies” filed for a new rate plan on June 30, 2025. In-person and virtual public statement hearings were held in various locations in September and October of 2025.

On November 7, 2025, parties other than the Companies filed their direct testimony. On December 5, 2025, the Companies and other parties filed rebuttal testimony.

On December 11, 2025, the Companies issued a Notice of Impending Settlement stating that the Companies and DPS Staff agreed to enter into initial settlement negotiations.

On December 24, 2025, the Companies requested an extension of the hearing date by one month to accommodate continuing efforts by the parties to reach a settlement. The request was supported by DPS Staff and other parties. On December 29, 2025, the ALJs granted the request to delay the hearing, and rescheduled the commencement of the hearing to February 9, 2026..

On January 23, 2026, DPS staff informed the ALJs that no further settlement meetings were scheduled and that they planned to move forward with the hearing. On January 28, 2026, a Notice of Evidentiary Hearing was issued, setting forth the time and place of the hearing. On January 30, 2026, the parties submitted corrected testimony and exhibits.

On February 2, 2026, various parties, including the undersigned, requested that parties be allowed to view the hearing remotely. This request was denied on February 3, 2026. On February 6, 2026, a procedural conference was held by Webex.

The hearing commenced on February 9, 2026 and continued for 17 days, through March 6, 2026. At the conclusion of the evidentiary hearing, a briefing schedule was set, with parties to file post-hearing briefs by April 2, 2026, and reply briefs by April 17, 2026.

D. Bill Impacts / Affordability

As noted above, as elected officials, we joined this rate case to represent the interests of our constituents, many of whom are struggling to pay higher-than-ever utility bills.

A rate increase of the magnitude sought by the Companies will have a devastating impact on our constituents' ability to make ends meet and could thrust many into utility debt for what might be the first time in their lives.

The direct testimony of Assemblymember Chris Burdick includes a section titled Affordability and Public Interest.³ “The current rate structure is already placing an undue burden on financially strained customers, as evidenced by a significant and growing number of residential customer arrearages.”⁴ Burdick cites the July 2022 New York State Comptroller’s Economic and Policy Insights, Distribution of Utility Arrears in New York State, which reported that as of March 2022, 94,300 residential NYSEG customers were in arrears in the amount of \$56.9 million.⁵ And according to NYSEG’s September 2025 monthly collections report submitted to the Public Service Commission, 110,219 of NYSEG residential customers were more than 60 days in arrears, with 86,018 having received final termination notices.⁶ According to RG&E’s September 2025 monthly collections report submitted to the Public Service Commission, 72,102 of RG&E’s residential customers were more than 60 days in arrears, with 46,552 having received final termination notices.⁷

Burdick further noted the stark contrast between the January 1, 2026, cost-of-living increase for Social Security recipients of 2.8% with the effect on utility

³ March 6, 2025 Tr. 313, 335–337.

⁴ March 6, 2025 Tr. 336.

⁵ March 6, 2025 Tr. 336–337.

⁶ See March 6, 2025 Tr. 1435 (Sen. Mayer Testimony, citing Case No. 91-M-0744, Proceeding on Motion of the Commission to examine the collection practices of the major gas and electric utilities in New York State, NYSEG Monthly Collections Reports (Oct. 15, 2025)).

⁷ Case No. 91-M-0744, Proceeding on Motion of the Commission to examine the collection practices of the major gas and electric utilities in New York State, RGE Monthly Collection Report (Oct. 15, 2025).

rates that the Companies' proposal would cause, and that low-income households and small businesses would be affected disproportionately.⁸

The Direct Testimony of William D. Yates, CPA for the Public Utility Law Project also discussed affordability in his section titled "Bill Impacts of Company's Proposed Rate Increases,"⁹ and with respect to NYSEG's proposed increases in monthly fixed charges for electric service and gas, recommended that "the parties and the Commission explore alternative rate designs that would, at a minimum, freeze these charges and, more generally, reward conservation and energy efficiency through lower delivery bills."¹⁰ Mr. Yates also provided testimony on a significant rise in arrears for Non-EAP accounts at the Companies since 2019.¹¹

Our constituents simply cannot afford ever-escalating utility costs with no relief in sight. We are in crisis.

We urge the ALJs in their recommended decision and the Public Service Commission, in its ultimate determination, to keep bill impacts, particularly for the residential customer, at the "*lowest possible* reasonable rate consistent with the maintenance of adequate service in the public interest." Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591, 611 (1944) (emphasis added).

III. EXPENSE ITEMS

A. O&M

14. Legal Expense

Rate case legal expenses for NYSEG's prior rate proceeding (for the rate period beginning May 1, 2023) were \$1.25 million.¹² Rate case expenses for the instant

⁸ March 6, 2025 Tr. 337.

⁹ Feb. 11, 2026 Tr. 15, 53–56.

¹⁰ Feb. 11, 2026 Tr. 55.

¹¹ Feb. 11, 2026 Tr. 56.

¹² See Exhibit 920 at 29 (Exhibit_(SM-05) (NYSEG Response to Senator Mayer IR 33)).

rate cases appear to be even higher, \$1.875 million for NYSEG and \$1.1 million for RG&E.¹³

We urge the ALJs in their recommended decision, and the PSC in its final determination, to disallow all expenses connected to bringing and litigating these proceedings. Ratepayers should not have to bear the financial burden of the companies' efforts to raise their rates.

IV. RATE BASE ITEMS

As Consolidated Elected Officials, we note that the record raises a broader issue relevant to the Commission's evaluation of the Companies' proposed capital investments and rate base recovery. Under the current regulatory framework, capital expenditures are recovered from ratepayers through rates and, once placed into service, are included in rate base and earn a return. As a result, the Companies' proposed investment program will be **financed on the back of ratepayers** while **shareholders receive the return** on those investments. This structure places particular importance on the Commission's review of whether proposed investments are necessary, prudently incurred, and appropriately allocated. Where ratepayers both fund the underlying investment and bear the ongoing cost of return, rigorous scrutiny of capital spending and cost recovery is essential to ensure that rates remain just and reasonable.

The record in this proceeding reflects continued and substantial proposed capital investment.¹⁴ At the same time, the Commission's management and operations audit identified concerns related to cost allocation practices, transparency, customer service performance, and

¹³ See Exhibit 308 (Exhibit__(NYSEG Elec RRP-2CU), September Update, Schedule C & Exhibit 309 (Exhibit__(RGE Elec RRP-2 CU), September Update, Schedule C), showing Legal Expense at \$1,875,000 for NYSEG Electric; \$1,098,000 for RG&E Electric).

¹⁴ See Feb. 10, 2026 Tr. 579–721 (Staff Common Capital Expenditures Panel Testimony and Cross-Examination); Feb. 26, 2026 Tr. 18–506 (Companies Electric Capital Expenditures Panel Testimony and Cross-Examination)(Public redacted version); March 3, 2026 Tr. 13–430 (Companies Gas Capital Expenditures Panel Testimony and Cross-Examination).

management oversight, and raised questions regarding whether the Companies' organizational structure adequately protects ratepayer interests.¹⁵

These findings are directly relevant to the Commission's assessment of proposed additions to rate base. Deficiencies in cost allocation, oversight and internal controls increase the risk that costs included in rate base may not be fully supported by cost causation or prudence. Under such circumstances, additional scrutiny of proposed capital expenditures and associated cost recovery is warranted.

Accordingly, we ask that the Commission closely evaluate whether proposed investments are supported by the record, whether costs have been appropriately allocated to New York ratepayers, and whether the Companies have demonstrated that such investments are being implemented **efficiently** and with adequate oversight. If the Companies cannot clearly demonstrate that these costs are necessary, properly allocated, and supported by the record, they should not be included in rate base and recovered from ratepayers.

VIII. RATE OF RETURN / FINANCIAL ITEMS

C. Cost of Common Equity

Consolidated Elected Officials support DPS Staff's recommended Return on Equity (ROE) of 9%,¹⁶ a recommendation reached by using Staff's time-tested Generic Financing Methodology (GFM), in use for the past thirty years, a methodology which has been upheld by the PSC in both litigated and settled cases.¹⁷

¹⁵ See Feb. 11, 2026 Tr. 40–51, 94–95 (Testimony of PULP Witness Yates re 2023 NorthStar Consulting Group Audit); March 6, 2026 Tr. 458–459 (Testimony of DPS Staff Management and Operations Audit Panel re 2023 NorthStar Audit). See also Final Report, A Comprehensive Management and Operations Audit of New York State Electric & Gas Corporation and Rochester Gas & Electric Corporation, Case 23-M-0103 (Feb. 24, 2025), available at <https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=23-M-0103>

¹⁶ See Feb. 10, 2026 (Corrected) Tr. 359–360, 385 (Testimony of DPS Staff Witness Andrew Hale on Rate of Return and ROE, stating, at 421, “the proposed cost rate for common equity that the Companies propose for both NYSEG and RG&E is excessive, and the Commission should reject it”).

¹⁷ See Feb. 10, 2026 Tr. 361; Feb 11, 2026 Tr. 77-78 (Testimony of PULP Witness William Yates: ‘Staff ROE Model broadly resembles the model described in the Recommended Decision in Case 91-M-0509 and has become known colloquially as the “Generic Financing Methodology”’).

The Companies are asking in this case for a 10% ROE. Instead of accepting the results of the time-tested GFM and the DPS Staff recommendation of a 9% ROE, Companies Witness Anne E. Bulkley argues backward from the Companies' target allowed ROE and tweaks the formula to achieve the desired outcome of 10%.

In her initial testimony, Companies Witness Bulkley cites the United States Supreme Court cases *Hope* and *Bluefield* as having established the standards for determining the reasonableness of a utility's allowed ROE.¹⁸ According to the *Hope* Court: "The ratemaking process under the [Natural Gas] Act, *i.e.*, the fixing of 'just and reasonable' rates, involves a balancing of the investor and the consumer interests.... [R]egulation does not insure that the business shall produce net revenues."¹⁹

The *Hope* Court goes on to say that "[t]he primary aim of this legislation was to protect consumers against exploitation at the [h]ands of natural gas companies" and cites language in the original Act that rates should be set at the "lowest possible reasonable rate consistent with the maintenance of adequate service in the public interest." The Court notes that "[w]hile this [language] was later dropped, there is nothing to indicate that it was not and is not still an accurate statement of purpose of the Act."²⁰ In *Hope*, the Court upheld the validity of the Federal Power Commission's rate order reducing the rates chargeable by Hope Natural Gas Co. and upheld the Commission's finding that while an 8% return would be unreasonable, 6 ½ % was a fair rate of return.²¹

CEO supports the position(s) of DPS Staff on Cost of Common Equity and within that subpart, return on equity (ROE) and submits its position in support of DPS staff recommendation of 9.0% ROE for each of the Companies, as compared to 10.0% as requested by each of the Companies.²²

¹⁸ March 5, 2026 Tr. 37-38. See *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591 (1944); *Bluefield Waterworks & Improvement Co. v. Public Service Commission of West Virginia*, 262 U.S. 679 (1923).

¹⁹ 320 U.S. 591, 603 (citing *Natural Gas Pipeline Co.*).

²⁰ 320 U.S. 591, 610, 638.

²¹ See *Hope* at 599-600.

²² See Feb. 10, 2026 Tr. 360 (Testimony of DPS Staff Witness Hale)

Cross-examination by Assemblymember Chris Burdick of the Companies Witness Bulkley on March 5, 2026 supports our assertion that the Companies' proposed 10.0% ROE is unreasonable as it relies on a contrived methodology which deviates from the standard methodology utilized by the DPS under the Generic Finance Proceeding Recommended Decision guidance document, commonly referred to as the Generic Financing Methodology (GFM).

Companies Witness Bulkley criticizes the GFM, stating, "My proposed solution for addressing the issues [which she has with the GFM] is to weigh both models equally,"²³ which deviates from the guidance document.²⁴

It is only by adopting a singular methodology that the key expert witness for the Companies arrives at an ROE that significantly exceeds the DPS-recommended ROE. Ms. Bulkley also acknowledged that, to the best of her knowledge, the Commission has not, in any way, over the twenty-five years or thereabouts since the recommended decision was issued, indicated publicly its interest in reassessing and/or updating the recommendations set forth in the GFP RD guidance document.²⁵

It should be noted that Ms. Bulkley, in cross-examination by PULP's John Walters, acknowledged that the generic finance proceeding RD stated that the parties proposing different weightings have the burden of convincing the Commission of their superiority.²⁶ Consolidated Elected Officials submit that the Companies have not met the burden.

Further, the Companies have failed to provide a credible basis to increase the authorized ROE of 9.2% under the prior rate plan (Cases 22-E-0317 and 22-G-0318) or, for that matter, to refute the 9.0% recommended ROE of DPS staff. Also, as stated in the Direct Testimony of Assemblymember Chris Burdick, given the relatively low interest rate environment, access to capital on favorable terms and investor confidence, the proposed 10.0% ROE exceeds what is supported by current market conditions.²⁷ Further, there are reputable studies that show that approved ROEs for regulated utilities exceed various financial ROE benchmarks.²⁸

²³ March 5, 2026 Tr. 289-290.

²⁴ March 5, 2026 Tr. 290 lines 14-16.

²⁵ March 5, 2026 Tr. 284-285.

²⁶ March 5, 2026 Tr. 265 lines 15-23.

²⁷ March 6, 2026 Tr. 323-324.

²⁸ March 6, 2026 Tr. 325.

Mark Ellis, in his recent paper, *Rate of Return Equals Cost of Capital: A Simple, Fair Formula to Stop Investor-Owned Utilities From Overcharging the Public*, states that “Utilities have been awarded ROEs approximately twice their actual, market-based cost of equity — in other words, twice what is “just and reasonable” — for over a decade.”²⁹

Karl Dunkle Werner and Stephen Jarvis make a similar argument to Mr. Ellis, in *Rate of Return Regulation Revisited*.³⁰ Mr. Dunkle and Mr. Jarvis, in their review of rate cases over a 40-year time span, found “a substantial gap between US utilities’ approved RoE and various benchmark measures of their underlying capital cost.”³¹

Companies Witness Bulkley has acted as an expert witness on the subject of return on equity in 212 rate cases in front of 42 regulatory bodies, in 36 states, as well as the Federal Energy Regulatory Commission (FERC).³²

As experts and consultants such as Companies Witness Bulkley testify on behalf of utilities across the country, arguing, one must assume, for the highest possible ROE that regulators might award, the cumulative effect is of ROEs ratcheting up from one utility rate case to the next, pushing the ratepayer’s burden ever higher in an ever increasing spiral.³³

Furthermore, historical evidence indicates that the Companies have succeeded in making a profit at lower than their requested or allowed ROEs in rate cases going back to 2015.

In Rate Case 15-E-0283 et al., while the companies sought a Return on Equity (ROE) of between 9.84 and 10.29 % and staff recommended an ROE of 8.60 %, the PSC approved an ROE of 9.0 %.³⁴ NYSEG’s actual achieved ROE in 2017 (for the twelve months ending on April 30, 2017) was 8.74% for Electric, and 10.04% for Gas; in 2018 those numbers were 8.59% and 10.39%; in 2019, 6.21% and 8.56%; in 2020, 4.04% and 7.61% .³⁵ Despite falling short of its

²⁹ Exhibit 926 at 6.

³⁰ See Exhibit 927.

³¹ Exhibit 927 at 22.

³² See Exhibit 171 (Exhibit_(AEB-15))

³³ See Exhibit 926 at 11 (discussing the upward spiral in rates and “systematic upward bias” with each utility “simply referring to the ROEs awarded to its peers” and “just four firms provid[ing] more than 90% of utilities’ ROR testimony” in 60 ongoing proceedings as of 2023).

³⁴ See Exhibit 1135 (Companies’ Response to Senator Mayer IRs 51-53) at 1.

³⁵ Exhibit 1135 at 2-9.

allowed ROE in most of those years, NYSEG paid out dividends of \$75 million in 2016, \$100 million in 2017, and \$100 million in 2019.³⁶

In Rate Case 19-E-0378 et al., while the Companies requested an ROE of 9.50 % and staff recommended an ROE of 8.2 %, the ROE in the joint proposal, approved by the PSC, was 8.8 %.

NYSEG's actual achieved ROE for 2021 was 8.45% for Electric and 9.0% for Gas; for 2022, actual ROE was 6.86% Electric and 9.10%; for 2023, actual ROE was 4.87% for Electric, 8.77% for Gas. Despite falling short of its allowed ROE in most of those years, NYSEG paid out dividends of \$100 million in 2020, \$270 million in 2021, \$175 million in 2022, and \$200 million in 2023.³⁷

In Rate Case 22-E-0317 et al., while the Companies requested an ROE of 10.20 % and DPS staff recommended an ROE of 8.85 %, the PSC adopted the joint proposal's ROE of 9.2 %.

NYSEG's actual achieved ROE for those years was 7.61% Electric, 5.87% Gas in 2024; and 7.75% Electric and 7.22% in 2025.³⁸

RG&E's actual achieved ROEs for the four rate years succeeding the 2015 case were 9.11%, 9.92%, 10.06%, and 8.72% for Electric, and 10.28%, 9.75%, 8.30%, and 7.04% for Gas. For the three rate years succeeding the 2019 case, RG&E's actual ROEs were 9%, 7.41%, and 7.43% for Electric and 8.3%, 7.94%, and 8.66% for gas. For the two rate years succeeding the 2022 rate case proceeding, RG&E's actual ROE was 7.88% and 7.27% for Electric and 8.12 % and 7.11% for Gas.³⁹

The profits of NYSEG and RG&E, two of seven Avangrid subsidiaries, have increased 185% since 2015 and totaled more than \$387 million in 2024.⁴⁰

³⁶ Exhibit 1135 at 10.

³⁷ Exhibit 1135 at 11-18.

³⁸ Exhibit 1135 at 19-24.

³⁹ Exhibit 933 (Exhibit_(WDY-03) at 9–18.

⁴⁰ See Exhibit 921 (Exhibit_(SM-06), at 138, 193, 501, 548 (NYSEG and RG&E Statements of Income/Net Income); Exhibit 922 (Exhibit_(SM-07): Avangrid Subsidiary Financials Worksheet).

The profits of Avangrid, NYSEG and RG&E's parent company, totaled \$732 million in 2024 for all seven subsidiaries.⁴¹

When Avangrid was taken private by Iberdrola in 2025, Iberdrola paid \$35.75 per share, "an 11.4% premium over the closing price of its common stock on March 6, 2024, the last unaffected trading day prior to Avangrid's announcement of receipt of Iberdrola's unsolicited offer."⁴²

"Iberdrola [now] owns one hundred percent of Avangrid, and Avangrid owns one hundred percent of NYSEG. As such, upon consolidation, NYSEG's net income and OCI roll upward to Avangrid one hundred percent, and ultimately Iberdrola one hundred percent."⁴³ NYSEG's net income in 2025 through September 2025 was \$198 million.⁴⁴

For the year ended December 31, 2023, Avangrid (which operates in New York and New England) had approximately \$44.0 billion in assets and approximately \$8.3 billion in revenues. For the year ended December 31, 2024, Iberdrola (which operates in Spain, the United Kingdom, the United States, Mexico, Brazil, Germany, France, and Australia) had approximately \$163.9 billion in assets and \$48.4 billion in revenues.⁴⁵

In her testimony, Company Witness Bulkley asserts that an ROE lower than 10% would jeopardize the Companies' credit rating. She states that "credit rating agencies consider the authorized ROE and equity ratio for regulated utilities to be very important."⁴⁶

According to Company Witness Bulkley, NYSEG's long term issuer ratings are Baa1 (Moody's), A- (S&P) and BBB+ (Fitch) and RG&E's long-term 24 issuer ratings are Baa1 (Moody's), A- (S&P) and BBB+ (Fitch).⁴⁷ The Companies' credit ratings have not changed since

⁴¹ Exhibit 921 at 14, 51, 98, 16 138, 193, 247, 289; Exhibit 922.

⁴² Exhibit 924 (Exhibit (SM-09)).

⁴³ Feb. 18, 2026 Tr. 470–471 (Companies Witness Andrea VanLuling, confirming accuracy of Rep. Riley statement).

⁴⁴ Feb. 18, 2026 Tr. 480.

⁴⁵ Feb. 10, 2026 Tr. 369–370 (Testimony of Staff Witness Hale).

⁴⁶ March 5, 2026 Tr. 51.

⁴⁷ March 5, 2026 Tr. 62.

2021,⁴⁸ and are, according to Staff Witness Hale, “comparable with the other New York State investor-owned utilities.”⁴⁹

Credit rating agencies look at a multitude of factors relating to company performance in determining ratings. DPS Staff Management and Operations Audit Panel note in their testimony regarding recent and ongoing management and operation audits, that the 2023 auditors, NorthStar Consulting Group, raised numerous concerns with the Companies’ performance and that NorthStar opined that the Companies’ organizational structure “does not protect the Companies’ ratepayers’ interests.”⁵⁰ In his testimony, PULP Witness William Yates also outlined deficiencies identified in the 2023 NorthStar audit such as deterioration of customer service metrics, lack of transparency in cost allocation among corporate entities, subjective executive incentives, poor physical and cyber security planning, and voluminous customer complaints, among other issues.⁵¹

It stands to reason that credit rating agencies would take into account the Companies’ failure to achieve their allowed ROEs in past rate years and the multiple reasons for that failure and not consider solely allowed ROE going forward. The raters’ concern is not whether the Companies make a percent more or less at the upper bounds in return on equity, but whether they are well managed and capable of achieving a return sufficient to pay back bondholders and pay out dividends to shareholders. Furthermore, as Mark Ellis notes, while “[o]ne of the most common arguments made by utilities in objecting to lower ROEs is that any potential savings are illusory” in that “a lower ROE would impair the utility’s credit rating,” “any incremental increase in the cost of debt is overwhelmed by the customer savings on utility profits.”⁵²

We are in accord with Staff Witness Hale’s position that Staff’s “recommended common equity ratio and ROE, when combined with other quantitative metrics and qualitative factors, produce results that are generally consistent with the performance S&P and Moody’s require for NYSEG and RG&E to maintain their current credit ratings of ‘A-’ and ‘Baa1,’ respectively.”⁵³

⁴⁸ See Exhibit 920 at 36-37 (Exhibit_(SM-05)) (Companies’ Responses to Sen. Mayer IRs 44 and 45); Feb. 10, 2026 Tr. 350–351 (Staff Witness Hale testimony).

⁴⁹ Feb. 10, 2026 Tr. 383.

⁵⁰ March 6, 2026 Tr. 459.

⁵¹ Feb. 11, 2026 Tr. 30, 45–46, 94–95.

⁵² Exhibit 926 (Exhibit_(SM-11)) at 20.

⁵³ Feb. 10, 2026 Tr. 383.

Furthermore, the Companies' poor performance in the most recent rate period should not be rewarded by an even higher ROE than they are currently allowed. It is entirely likely that such poor performance was due in significant part to deficiencies such as those described in the management and operations audit; deficiencies caused by factors in large part independent of the level of the Companies' authorized ROE.

In her testimony, Companies Witness Bulkley highlights "regulatory risk" and credit rating agency concerns regarding the "regulatory environment" as arguments for a higher ROE.⁵⁴ "Credit rating agency concerns" should not keep regulators from doing the job they are tasked with — to protect the consumer, which is the fundamental, underlying purpose of regulation in this arena. Missing from Companies Witness Bulkley's analysis is the weighting of the consumer interest in the equation.

Consolidated Elected Officials urge the ALJs to adopt the DPS position of 9.0% ROE.

D. Earnings Sharing Mechanism

Given the financial stress our constituents are currently facing, we take the position that the Companies should return 100% of excess earnings above allowed ROE directly to ratepayers in the form of bill credits.

XII. CUSTOMER SERVICE

A. Customer Service Performance Indicators

Customer service remains a significant concern of CEO. Legislative offices frequently serve as intermediaries, assisting constituents facing service, billing, and other issues with utility providers.

2. PSC Complaint Rate

In the calendar year 2023, Department of Public Service Office of Consumer Services elevated 4,084 complaints against NYSEG and 2,128 complaints against RG&E.⁵⁵ In the month of August 2025, the rate of initial complaints against NYSEG were 31.20 per 100,000 customers;

⁵⁴ March 5, 2026 Tr. 106–125.

⁵⁵ Feb. 11, 2026 Tr. 90.

RG&E was 51.15, more than double the rate generated by any other major utility in the state aside from NYSEG.⁵⁶

NYSEG failed to meet contact satisfaction metric targets in 2023 and 2024⁵⁷ and the 2023 target for PSC compliant rate,⁵⁸ and is now seeking to reduce the negative revenue adjustment (NRA). The doubling provision of the NRA has been triggered against the Companies most recently in 2025.⁵⁹ CEO recommends maintaining the current NRA of seventy-six basis points and doubling provision as to not shift the financial burden of failing customer satisfaction metrics onto those very customers.

F. Walk-In Offices

The Companies also propose closing customer service centers. In the 2019 and 2022 rate cases, customers were encouraged to visit these customer service centers for meetings with the Companies' representatives.⁶⁰ Closing the RG&E customer service facility in Sodus would leave only one in-person customer service location (West Avenue, Rochester) available to customers in the entire seven-county service area. The customer service panel testified that the Companies did not perform a community impact study for the populations served by the offices they propose to close.⁶¹

Though the Companies cite the low number of customer representative-assisted transactions justify closing five walk-in offices, including Sodus,⁶² the Companies have not adequately quantified the number of customer service transactions that occur at the Sodus location proposed to be closed, as all transactions occurring at Sodus after Q1 of 2023 are logged in the home location of the traveling customer service representative who interacted with the customer, West Avenue or 3 City Center.⁶³

⁵⁶ Feb. 11, 2026 Tr. 91.

⁵⁷ Feb. 11, 2026 Tr. 546.

⁵⁸ Feb. 11, 2026 Tr. 547.

⁵⁹ Feb. 11, 2026 Tr. 550.

⁶⁰ Feb. 11, 2026 Tr. 156-157.

⁶¹ Feb. 11, 2026 Tr. 560.

⁶² Feb. 11, 2026 Tr. 262.

⁶³ Feb. 11, 2026 Tr. 149-150.

CEO recommends against closing any walk-in customer service center where customer service representatives are assigned or travel until the Companies can adequately demonstrate a significantly low number of customer service representative-assisted transactions at those locations. CEO also adopts the suggestion of PULP Witness William D. Yates that customer service representatives be available for in-person meetings on a case-by-case basis throughout the Companies' service area.⁶⁴

XV. ENERGY AFFORDABILITY PROGRAM

Consolidated Elected Officials support the position of the Public Utility Law Project regarding the Energy Affordability Program.

XVI. REVENUE ALLOCATION AND RATE DESIGN

C. Electric Revenue Allocation and Rate Design

2. Rate Design

d) Large Load Service Class

In the Testimony of William D. Yates, CPA, of PULP, he states, “Since the beginning of 2022, at least three AI and/or Crypto data centers have been proposed and/or become operational in the NYSEG service area.”⁶⁵ The energy needs of such facilities, he asserts, will require “enormous incremental investments in infrastructure to support the loads they require; with the cost of these investments spread among all the Companies' ratepayers.”⁶⁶ Mr. Yates recommends that “a separate service class for both NYSEG and RG&E be established for large electric loads with the high power densities of AI and Crypto data centers.”⁶⁷ In the Companies' cross examination of Mr. Yates on February 11, 2026, Mr. Yates reaffirmed his recommendation in response to a question regarding the establishment of separate service classifications in these proceedings stating “Well, I would recommend that they be created in this

⁶⁴ Feb. 11, Tr. 158.

⁶⁵ Feb. 11, 2026 Tr. 52–53, lines 15-21.

⁶⁶ Feb. 11, 2026 Tr. 53 lines 7-8.

⁶⁷ Feb. 11, 2026 Tr. 53 lines 14-17.

proceeding as essentially a placeholder for the next proceeding in that the advent of the installation of new data centers is in its initial stages but is expected to accelerate rather rapidly in the next three to five years.”⁶⁸ In his direct testimony, Assemblymember Burdick recommends that the Commission consider a statewide “Large Load” generic proceeding which should be comprehensive in scope and to include among other matters whether a separate service classification is appropriate.⁶⁹

Consolidated Elected Officials urge the ALJs to recommend to the Commission the adoption of one or more placeholder service classifications for large load facilities including data centers in an effort to protect ratepayers while the PSC’s work begins under the recently opened generic proceeding.

XVII. CONCLUSION

As stated at the outset, we are united in our focus on ensuring that our constituents do not fall even further behind economically and that rates are fair, just, and reasonable, not just for the holder of equity, but also for the person who pays the bills. In accord with *Hope*, we urge the ALJs to recommend the “*lowest possible* reasonable rates.” We urge the ALJs, and the PSC in its ultimate determination, to scrupulously hold the line on costs, and to prioritize people over profit.

⁶⁸ Feb. 11, 2026 Tr. 173.

⁶⁹ March 6, 2026 Tr. 332–333.

Respectfully submitted,

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