

Department of Public Service Staff Proposal

On May 18, 2023, the Public Service Commission (Commission) issued its Order Continuing and Modifying Standby Rate Exemptions.¹ The Standby Rate Exemption Order continued exemptions from standby rates for residential and small commercial customers, energy storage systems, and certain designated technologies that qualify as renewable energy systems under the Climate Leadership and Community Protection Act (CLCPA) and those used for administering the Clean Energy Standard. The Commission continued these exemptions indefinitely, unless modified by the Commission. However, the Commission directed Department of Public Service Staff (DPS Staff) to solicit public comments every two years, beginning in 2025, to examine whether such exemptions should be continued, modified, or eliminated. In accordance with the Standby Rate Exemption Order, DPS Staff is hereby seeking public comments on its recommendation that the present exemptions from standby service rates should continue, without modification (the Proposal).

As background, the existing exemptions to standby rates fall into one of five categories. The first exemption category applies to certain combinations of customer type and generation capacity for a number of technologies specified in Public Service Law (PSL) §§66-j² and 66-l,³ which effectively prohibit relevant customers from being charged Standby Rates (the PSL Exemptions). The Commission directed that the PSL Exemptions from standby rates continue indefinitely unless those sections of the PSL are modified in the future.⁴ The Commission further directed DPS Staff to submit a proposal for consideration in the event the relevant

¹ Case 19-E-0079, In the Matter of the Continuation of Standby Rate Exemptions, Order Continuing and Modifying Standby Rate Exemptions (issued May 18, 2023) (Standby Rate Exemption Order).

² PSL §66-j applies to: (1) solar photovoltaic systems 25 kilowatt (kW) or less for residential customers, 100 kW or less for farm service customers, and 2,000 kW or less for non-residential customers; (2) farm-waste electric generating equipment 2,000 kW or less; (3) micro-Combined Heat and Power installations between 1 kW and 10 kW; (4) fuel cell systems 10 kW or less for residential customers and 2,000 kW or less for non-residential customers; and (5) micro-hydro systems 25 kW or less for residential customers, and 2,000 kW or less for non-residential customers.

³ PSL §66-l applies to wind systems 25 kW or less for residential customers, 500 kW or less for farm service customers, and 2,000 kW or less for non-residential customers.

⁴ Case 19-E-0079, supra, Order Continuing Certain Exemptions to Standby Rates (issued May 14, 2021).

sections of the PSL are modified. The PSL Exemptions would not end until and unless the Commission has considered and acted upon such proposal. Notably, the PSL Exemptions are outside the scope of the Proposal.

The second category of exemption is referred to as the Residential and Small Commercial Exemption. This includes residential and small commercial non-demand customers, and has been in effect since standby rates were developed in 2002 and 2003.⁵

Third, the Designated Technologies Exemption provides an exemption from standby rates for certain defined environmentally beneficial technologies that meet the definition of “renewable energy systems” in the CLCPA and Clean Energy Standard programs. Specifically, the Designated Technologies Exemption applies to: (1) solar thermal; (2) photovoltaics; (3) on land and offshore wind; (4) hydroelectric; (5) geothermal electric; (6) geothermal ground source heat; (7) tidal energy; (8) wave energy; (9) ocean thermal; and (10) fuel cells which generate electricity fueled by biomass, biogas, and hydrogen, provided that these non-fossil fuel inputs are produced and/or manufactured through a process that does not include the combustion or electrolysis of fossil fuels, or the use of fossil fuel or non-renewable grid power in the conversion process.

Fourth is the Previously-Exempt Technologies Exemption. Prior to the Standby Rate Exemption Order, certain sustainably managed biogas, methane waste, and fuel cell units which utilize fossil fuel resources (Previously-Exempt Technologies) were eligible for an exemption from standby rates through the Designated Technologies Exemption. In the Standby Rate Exemption Order, the Commission discontinued standby rate exemptions for Previously-Exempt Technologies installed on or after June 1, 2023. The Commission allowed Previously

⁵ Case 02-E-0551, Rochester Gas & Electric Corporation, Order Establishing Electric Standby Rates (issued July 29, 2003); Case 02-E-0779, New York State Electric & Gas Corporation, Order Establishing Electric Standby Rates (issued July 30, 2003); Case 02-E-0780, et al., Orange & Rockland Utilities, Inc. and Consolidated Edison Company of New York, Inc., Order Establishing Electric Standby Rates (issued July 29, 2003); Case 02-E-1108, Central Hudson Gas & Electric Corporation, Order Establishing Electric Standby Rates (issued December 4, 2003); and Case 01-E-1847, Niagara Mohawk Power Corporation, Order Approving Joint Proposal (issued June 21, 2002).

Exempt Technologies installed prior to June 1, 2023 to continue to receive an exemption from standby rates for the remainder of the useful lifetime of such resources.⁶

The fifth exemption category relates to energy storage systems (i.e., the Energy Storage Exemption). This exemption applies to systems having a maximum inverter capability of 1 megawatt (MW) or less.

DPS Staff is unaware of any compelling rationale to modify or eliminate, at this time, either the Residential and Small Commercial Exemption, Designated Technologies Exemption, Previously-Exempt Technologies Exemption, or Energy Storage Exemption. The most-recent annual reports detailing customer participation in standby rate exemptions filed by the utilities in this proceeding on July 16, 2025 and August 1, 2025, demonstrate that customer participation in these exemptions remains at a comparatively low level that is not likely to produce significant cost-shifts. Further, proliferation of the technologies included in the Designated Technologies Exemption and Energy Storage Exemption remain critical to achieve New York State's energy and climate policy goals. Therefore, DPS Staff recommends that these exemptions continue, without further modification, and that no further Commission action to effectuate such continuation is necessary at this time.

⁶ The Standby Rate Exemptions Order held that while the “remaining useful life” of a Previously-Exempt Technology should be defined, there was inadequate information on the record to establish any specific criteria. The Commission determined that resolving disputes regarding continuation of the applicable Previously-Exempt Technologies on an as-needed basis will not be administratively burdensome.