**STATE OF NEW YORK**
**PUBLIC SERVICE COMMISSION**

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**In the Matter of Proactive Planning for Upgraded Electric Grid Infrastructure** — **Case 24-E-0364**

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# MULTIPLE INTERVENORS' COMMENTS ON PROACTIVE PLANNING PETITION

**Dated: March 10, 2025**

**MULTIPLE INTERVENORS**
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## PRELIMINARY STATEMENT

Pursuant to the Notice of Proposed Rulemaking published by the New York State Public Service Commission ("Commission") in the *New York State Register* on January 8, 2025 (I.D. No. PSC-01-25-00013-P), Multiple Intervenors hereby submits its Comments in response to the "Petition for Urgent Upgrade Projects and Associated Cost Recovery" ("Petition") filed by New York State Electric & Gas Corporation" ("NYSEG") and Rochester Gas and Electric Corporation ("RG&E;" collectively, the "Companies") on November 26, 2024, in Case 24-E-0364, *In the Matter of Proactive Planning for Upgraded Electric Grid Infrastructure*. Multiple Intervenors is an unincorporated association of approximately 55 large industrial, commercial, and institutional energy consumers with manufacturing and other facilities located throughout New York State, including the NYSEG and RG&E service territories. As detailed herein, Multiple Intervenors has numerous concerns regarding, and opposes, selected elements of the Proposal and recommends that those elements be rejected or modified in accordance herewith.

The Commission instituted this proceeding to plan proactively for infrastructure needs necessitated by electrification of the State's transportation and building sectors.[1] In the Order, the Commission issued directives to the State's investor-owned utilities to develop two types of filings:

1. a joint filing proposing "a framework for a process to proactively plan for EV and building electrification, define methods for evaluation and cost allocation of infrastructure projects, and describe the process by which this new planning framework may be integrated within other planning processes;" and

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[1] Case 24-E-0364, *In the Matter of Proactive Planning for Upgraded Electric Grid Infrastructure*, Order Establishing Proactive Planning Proceeding ("Proactive Planning Order") (issued August 15, 2024) at 1-2.

2. individual filings proposing "urgent projects that may require deployment before the completion of the overall planning process proposed in the first filing."[2]

In the Petition, which was the Companies' submission in response to the second directive,[3] NYSEG and RG&E identify capital projects that purportedly must be constructed on an expedited basis to meet load growth driven by building and transportation electrification (the "Proposed Upgrades"). The Companies seek extraordinary rate relief outside of a rate proceeding in the form of cost recovery mechanisms that would utilize a surcharge to begin cost recovery with the first capital dollar spent and shift all project development risk to customers.

For the reasons set forth below, Multiple Intervenors recommends that the Commission: (i) balance consideration of the Proposed Upgrades with the need to promote energy affordability for all customers; (ii) conduct a "rate case quality" examination of the Proposed Upgrades, which were submitted with "rate case quality" support,[4] to determine if the Companies justified expedited development of the proposed projects;[5] (iii) review the Proposed Upgrades utilizing evaluation criteria modified by Multiple Intervenors; (iv) require the Companies to offset the cost

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[2] Proactive Planning Order at 2.

[3] Multiple Intervenors is filing contemporaneously in this proceeding Comments regarding the "Joint Utilities' Proactive Planning Urgent Upgrade Projects Evaluation and Funding Proposal ("JU Proposal"), which responds to the Commission's first directive noted above. (*See* Case No. 24-E-0364, *supra*, Comments of Multiple Intervenors on the JU Proposal (dated March 10, 2025).) The Joint Utilities are comprised of: Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc. ("Con Edison"), Niagara Mohawk Power Corporation d/b/a National Grid, New York State Electric & Gas Corporation, Orange & Rockland Utilities, Inc., and Rochester Gas and Electric Corporation.

[4] The Companies make several statements that the Proposed Upgrades are supported with "rate case quality" information. (Petition at 10-12.)

[5] The JU Proposal describes criteria that the Joint Utilities recommend the Commission use to evaluate the need for expedited development of projects that a utility identifies as necessary to enable load growth driven by building and transportation electrification.

of any approved Proposed Upgrade with a commensurate reduction in planned capital projects; and (v) reject the Joint Utilities' cost recovery proposals.

# ARGUMENT

## POINT I

### THE COMMISSION SHOULD BALANCE ITS CONSIDERATION OF THE PROPOSED PROJECTS WITH THE NEED TO PROMOTE ENERGY AFFORDABILITY FOR ALL CUSTOMERS

Multiple Intervenors submits that the Commission must balance energy affordability with State decarbonization objectives and consider the Petition in the context of a sharply-increasing (and long overdue) focus on energy affordability in New York State. On February 11, 2025, Governor Hochul issued a letter to Commission Chair and CEO Rory Christian in which she objected to Con Edison's recent proposal to increase electric and gas delivery rates by 11.4% and 13.3%, respectively, and asserted that the proposed rate relief should "be rejected as it would burden New Yorkers who are already struggling to make ends meet after several years of inflationary pressures in the marketplace."[6] After recounting various efforts to lower costs for utility ratepayers, Governor Hochul stated that "[u]tilities must not be allowed to now upend that progress for ratepayers with exorbitant rate hikes."[7] The Press Release continues:

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[6] Letter to Chair Christian, Governor Hochul (dated February 11, 2025) ("Letter to Chair"), *available at* https://www.governor.ny.gov/sites/default/files/2025-02/02.11.25_Governor_Kathy_Hochul_Letter_to_Rory_M_Christian.pdf. **All** customers are challenged by "years of inflationary pressures in the marketplace" whether or not they are served by Con Edison or located outside of that utility's service territory.

[7] Letter to Chair.

> Rate cases understandably must account for both the needs of the system and the needs of the customers. **Right now, affordability is our greatest short-term challenge** and the Department of Public Service must take all necessary steps to protect ratepayers from Con Edison's unconscionable rate hike.[8]

Governor Hochul also directed the Department of Public Service to audit utility company salaries and compensation "to ensure New York ratepayers are getting a fair deal."[9]

NYSEG and RG&E are seeking approval to spend approximately $468 million and $86 million, respectively, and to begin recovering the costs of Project Upgrades through Construction Work in Progress ("CWIP") and "Accelerated Depreciation" "based on each dollar of investment being depreciated starting on the day it is spent, until the project is completed…"[10] Each utility thus proposes to expend significant amounts of capital annually in furtherance of their recommended projects and to begin recovering those investments immediately without waiting for the assets to be placed into service, but they seemingly make no attempt to estimate how their proposals would impact either revenue requirements or utility bills.

These impacts must be estimated and evaluated before the Commission rules on the Petition, and the impacts cannot be considered in a vacuum. On May 1, 2025, NYSEG and RG&E will enter the third and last rate year of a multi-year rate plan in which NYSEG and RG&E were authorized to increase electric delivery rates by approximately 17.1% and 11.0% on

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8 Letter to Chair (emphasis added).

9 Press Release, "Keeping Money in Your Pockets: Governor Hochul Takes on Sky-High Utility Costs and Demands Accountability for New York Ratepayers," (dated February 11, 2025) ("Press Release"), *available at* https://www.governor.ny.gov/news/keeping-money-your-pockets-governor-hochul-takes-sky-high-utility-costs-and-demands.

10 Petition at 38.

a net base delivery basis in each year of the rate plan.[11] It has been challenging for customers to absorb these enormous annual increases, which are not the only bill increases that have impacted customers during the term of the rate plan (*e.g.*, through surcharges intended to fund State policy initiatives). Given that the last year of the Companies' rate plans will commence on May 1, 2025, it is likely that NYSEG and RG&E will file a new rate proceeding to seek rate relief effective May 1, 2026. Thus, any rate impact that the Commission approves through the Petition would come on the heels of three enormous consecutive delivery rate increases for NYSEG and RG&E customers and, potentially, overlap with three incremental annual increases in delivery rates, if the Companies' next rate filing leads to a new multi-year rate plan. It also would overlap with surcharges that the Commission recently approved for NYSEG and RG&E to recover securitized storm response costs and certain financing costs in the amount of $706.8 million and $75.1 million, respectively.[12] The Companies' Proposal must be considered holistically in the context of these rate increases.

The Petition illustrates these cost pressures. It explains that the State's clean energy policy directives are straining the Companies' cash flows and credit metrics, which impacts apparently are a reason why NYSEG and RG&E are seeking extraordinary ratemaking treatment

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[11] Cases 22-E-0317 & 22-G-0318, *New York State Electric & Gas Corporation – Electric and Gas Rates*, and Cases 22-E-0319 & 22-G-0320, *Rochester Gas and Electric Corporation – Electric and Gas Rates*, Statement of Multiple Intervenors in Partial Opposition and Partial Support of the Joint Proposal (dated June 27, 2023), at 16.

[12] Case 24-E-0493, *Petition of New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation for Storm Securitization Financing Orders, Pursuant to Section 3 of the New York Utility Corporation Securitization Act, to Use Securitization to Recover Certain Recovery Costs and Approval of Tariffs Creating Each Company's Recovery Charges to Recover Recovery Costs*, Financing Order to Recovery Storm Recovery Costs (issued December 19, 2024). The Commission approved surcharges for each utility in separate orders with identical names that were issued on the same date in this proceeding, and will be referred to herein as the "NYSEG Securitization Order" and the "RG&E Securitization Order."

to minimize regulatory lag and uncertainty regarding the amount and timing of cost recovery.[13] In a sign of the current, significant affordability challenge burdening customers, NYSEG and RG&E also identify customer arrears as one factor contributing to "significant cash flow and credit metric pressures" that persist despite the exorbitant rate relief granted in their last rate proceeding.[14] Consistent with Multiple Intervenors' concern that customers could be harmed by rate increases driven by the Proposed Upgrades and the extraordinary ratemaking treatment proposed for those investments, the Petition states that the significant costs of the Proposed Upgrades "are incremental to the **already substantial planned investments** to address … core system needs…."[15]

This statement also reinforces Multiple Intervenors' concern, detailed in response to the Joint Proposal adopted by the Commission in NYSEG's last rate proceeding, that NYSEG's electric capital expenditures are skyrocketing beyond control. In that proceeding, Multiple Intervenors demonstrated that NYSEG's capital expenditures would increase almost fivefold from Calendar Year 2016 ("CY 2016") through CY 2026, from $181.066 million to $904.864 million.[16] NYSEG now is proposing almost $468 million of incremental capital expenditures outside of the normal rate case process and before an anticipated rate filing that is likely to propose very high levels of capital spending. Customers cannot sustain such massive, continuous increases in capital spending.

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13 *See*, *e.g.*, Petition at 34 (sating that the "Companies simply cannot continue to take on incremental capital investment requirements, such as these to advance the State's clean energy policy goals, without having timely cash recovery of the associated financing costs.")

14 *Id*. at 3 and 34.

15 *Id*. at 33-34 (emphasis added).

16 Cases 22-E-0317 *et al*., *New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation – Electric and Gas Rates*, Statement of Multiple Intervenors in Partial Opposition and Partial Support of the Joint Proposal (dated June 27, 2023), p. 22.

For these reasons, it is critical that Department of Public Service Staff ("Staff") have adequate time and opportunity to scrutinize the claimed need for and costs of the proposed projects, and to develop ratepayer impact estimates. This information will be essential for the Commission to determine which of the Proposed Upgrades, if any, should be approved for expedited development and how to balance utilities' claimed need for accelerated cost recovery with the compelling need to promote energy affordability.

## POINT II

### THE COMMISSION SHOULD CONDUCT A "RATE CASE QUALITY" REVIEW ACCORDING OF THE PROPOSED PROJECTS

In its Proactive Planning Order, the Commission stated that all utility proposals for "urgent upgrades" must be "of rate case quality with appropriately supported cost estimates."[17] In their Petition, the Companies assert repeatedly that the Proposed Upgrades meet this requirement and are supported by "rate case quality" information.[18]

Multiple Intervenors supports the requirement that utilities seeking to expedite construction of certain capacity-related projects in response to the Proactive Planning Order should support those proposals with rate case quality data. This is the only reasonable approach to a process that has the potential to impose material rate impacts on customers outside of the normal rate case process.

Significantly, however, it is imperative that the rate case quality information submitted by the Companies be subject to a rate case quality review by Staff. Multiple Intervenors and other participants to this proceeding generally cannot match the resources, expertise, and access to

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[17] Proactive Planning Order at 12.

[18] Petition at 10-12.

utility information that Staff possesses. Moreover, the Commission has not established a process for parties to conduct discovery on the Petition during this notice and comment period. This omission further limits the ability of Multiple Intervenors and other parties to audit the Proposed Upgrades, whereas Staff might have other means to obtain supplemental information that is necessary for a comprehensive review of the Petition. Consequently, NYSEG and RG&E customers are depending on Staff to subject the Proposed Upgrades to the same level of scrutiny that they would receive if presented instead as part of a rate case filing.

Failure to conduct such a rigorous review would be inconsistent with the Commission's requirement that utilities must support their "urgent" project proposals with rate case quality information. Lack of adequate oversight and review also would risk subjecting customers to material rate increases that may not be justified at this time, thereby also contravening Governor Hochul's pronouncement that the Commission and Staff must confront the energy affordability challenge. Under no circumstances should administrative expediency be cited to justify a less robust review of the Proposed Upgrades.

## POINT III

## THE COMMISSION SHOULD REVIEW THE PROPOSED UPGRADES CONSISTENT WITH MULTIPLE INTERVENORS' RECOMMENDATIONS

Initially, as noted above, Multiple Intervenors submitted a contemporaneous filing that proposed modifications to the project evaluation criteria proposed by the Joint Utilities in order to increase the stringency of reviews conducted pursuant to those criteria. Multiple Intervenors recommends that the Commission adopt the proposed modifications for general application to the evaluation of electrification-related projects outside of rate proceedings, including the projects specified in the Petition.

The evaluation criteria proposed for system upgrades planned in response to increasing load driven by electrification would require the utility to demonstrate: (i) that the upgrade is required to enable transportation or building electrification; (ii) why "Construction-related Activities" must commence by July 1, 2026 to avoid the risk of delay in connection of electrification load; (iii) that there is a high degree of certainty of the need for each project based on location, magnitude, and timing of expected load, with a demonstration of how the utility intends to manage stranded asset risk; and (iv) that proposed projects are sized appropriately to address risks of over- or under-building.

Regarding the connection between electrification and the Proposed Upgrades, the Companies are intimately familiar with the electric systems that they design, maintain, and operate. Rate proceedings include multi-year capital expenditure plans that utilities prepare to address prioritized system needs in response to factors including customer demand. The Companies claim that the "needs" underlying the current project proposals "did not support the prioritization of the projects relative to the Companies' other investment priorities" when the capital investment plans underlying their last rate filing was developed.[19]

The claim that anticipated electrification load driving the Proposed Upgrades was not apparent during the Companies' last rate proceeding must be investigated and verified. The Companies should be required to demonstrate (i) that the proposed projects for which they are seeking accelerated Commission approval outside of the normal ratemaking process were not part of their most recently-submitted capital expenditure plans, and (ii) precisely why and how the allegedly urgent need cited now to justify the projects was not foreseen during the Companies' most recent rate proceeding.

[19] Petition at 17.

This is particularly important given recent and potential future changes in federal energy policy and the availability of federal incentives to support clean energy project development. Actual and/or anticipated changes in incentive availability could lead to delays and/or cancellations in customer requests and electrification plans that would moderate the electrification load growth underlying the Proposed Upgrades, potentially to an extent that would eliminate the claimed need to consider expedited development. For this reason, it will be critical to examine whether load growth assumptions reflected in data provided by the Companies is reasonably accurate and not impacted materially by circumstances that have changed since the Petition was filed.

Next, given that (i) the Companies will be eligible to file a new rate proceeding soon, (ii) development of the rate filing could have been underway late last year when the Petition was filed, and (iii) the Proactive Planning Order created an opportunity for NYSEG and RG&E to attempt to shift "rate case quality" project proposals from their developing rate filing to this proceeding, regulatory review of the Petition must investigate and confirm that the Proposed Upgrades truly are "urgent" and not simply opportunistic attempts to capture the benefit of accelerated cost recovery potentially made available by the Proactive Planning Order.

Importantly, data presented in the Petition raises concerns that the proposed projects do not have strong ties to electrification load and/or would result in over-building that is not necessary to meet increasing demand driven by electrification:

| | Total Incremental Capacity | Electrification Load Enabled | Enabled Load as % of Incremental Capacity | Cost Estimate of Proposed Projects | $ / MW Electrification Load Enabled |
|---|---|---|---|---|---|
| **NYSEG**[20] | 124.9 MW | 22.1 MW | 17.7% | $467.9 million | $21.17 million/MW |
| **RG&E**[21] | 132.5 MW | 13.4 MW | 10.1% | $86.3 million | $3.16 million/MW |

Data presented on the above table identify two issues that should be critically examined and explained in any Order issued in response to the Companies' Proposal. First, NYSEG and RG&E propose to construct projects that would provide far more capacity than they would enable for electrification. As proposed, only 17.7% and 10.1% of the incremental capacity created through the proposed projects would enable electrification load. This suggests that the Proposed Upgrades may not have strong ties to transportation and/or building electrification, which consequently raises a concern that the projects are larger in scope than actually may be necessary to satisfy exigent electrification load. If that were to be true, then customers would be harmed by the inappropriate classification of capital projects as "urgent," which designation could trigger extraordinary ratemaking treatment and adverse rate impacts that further challenge affordability. Moreover, the cost to "enable" each MW of electrification load is starkly different for each utility. According to the Companies' Proposal, it would cost NYSEG almost seven times as much as RG&E to "enable" each MW. This disparity must be investigated carefully.

Finally, the Companies purport to demonstrate urgency by explaining why or how Construction-related Activities must commence by July 1, 2026, to avoid the risk of delay in the connection of customer electrification load. Multiple Intervenors recommends that the Companies be required to supplement the Petition with information demonstrating that the

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20 Petition at 20.

21 *Id.* at 22.

magnitude and the length of any delay that would occur if the proposed Project Upgrades are considered instead under normal rate case procedures. For instance, if the cost of a Proposed Upgrade project is material, and the amount of electrification that would be delayed rather limited, the public interest may warrant evaluating the project alongside and in context with the utility's other, planned capital expenditures rather than singling it out for accelerated ratemaking treatment.

## POINT IV

### THE COMMISSION SHOULD REQUIRE NYSEG AND RG&E TO OFFSET INCREMENTAL CAPEX BY DELAYING OR CANCELING PLANNED PROJECTS OF AT LEAST AN EQUIVALENT VALUE

If the Commission determines that one or more of the Proposed Upgrades should be approved outside of the normal ratemaking process, then the Companies should be required to analyze and identify previously-planned infrastructure projects that can be canceled or delayed such that existing capital expenditure budgets can be reduced by amounts that, at a minimum, are at least comparable to the cost of any approved Proposed Upgrade(s).

Rate proceedings are resource-intensive efforts that can extend for a year or more. Utility-proposed capital projects and budgets are key revenue requirement "drivers" in rate proceedings, and the parties – particularly Staff – expend substantial efforts trying to understand and evaluate the proposed projects, the estimated costs associated with those projects, the evaluation criteria used by the utility to justify certain projects and to prioritize them over other potential projects, *etc*. Whether the rate proceeding ends with a one-year litigated rate plan or a multi-year negotiated rate plan, significant attention is accorded to ensuring that customer rate impacts are acceptable and the resulting rates are just and reasonable. Approved capital expenditure budgets, which impact both current and future utility revenue requirements, are major elements of rate decisions. From the perspective of Multiple Intervenors and, upon information and belief, other customers, one of the potential benefits of a multi-year rate plan is rate certainty. This benefit is undermined (if not destroyed) by the practice of authorizing utilities to implement increased collections from customers via surcharges or similar means above and beyond levels approved in rate proceedings.

During Commission-adopted rate plans such as those currently governing NYSEG and RG&E rates and operations, the Companies have the discretion to modify planned capital expenditures within approved capital budgets. Utility systems are dynamic and, based on changing system needs, the Companies can implement different capital projects than ones that were reviewed during their last rate proceeding. Recognizing this, if utilities are accorded an ability to advance, and potentially implement, Proposed Upgrades outside of the normal ratemaking process, then, at a minimum, they should be required to identify projects included within their most recent capital plans that can be canceled or delayed. These offsetting changes to approved capital budgets would be necessary to eliminate or minimize incremental customer rate impacts that otherwise would result from approval of Proposed Upgrades outside of the normal ratemaking process.

## POINT V

### THE COMMISSION SHOULD REJECT THE COMPANIES' COST RECOVERY PROPOSALS

NYSEG and RG&E advance several proposals relating to cost allocation and cost recovery associated with the projects presented in their Petition.[22] For the reasons set forth below, the Companies' cost recovery proposals should be rejected by the Commission.

[22] Petition at 33-39.

Initially, the Companies' existing rate plan will end on April 30, 2026 and they are eligible to file soon for incremental rate relief effective as early as May 1, 2026. In light of multiple statements referring to the pressure bearing down on the Companies' cash flow and risk to their credit ratings, it seems likely that NYSEG and RG&E soon will commence rate proceedings in an attempt to bolster cash flows and credit metrics, among other drivers. If they do file, then an Order establishing new rates could issue before July 1, 2026. Multiple Intervenors submits that, under these circumstances, there is no compelling reason for the Companies to be granted cost recovery that is either accelerated or outside of base delivery rates. The Commission instead should direct that the Proposed Upgrades be examined in detail in the next NYSEG and RG&E rate filing, at which time the Companies' capital plans and expenditure budgets, as well as all other costs and revenues, may be scrutinized comprehensively to arrive at a balanced rate plan that does not impose burdensome impacts on customers.

If, *arguendo*, the Commission elects to consider approving one or more of the proposed Project Upgrades outside of a rate proceeding, then it also should adopt the following recommendations.

The Commission stated in the Proactive Planning Order that project proposals must include "an analysis of the estimated revenue requirement and offsetting incremental revenues associated with the infrastructure development…."[23] The Petition, however, is not clear as to whether the estimated annual portfolio investments are presented as the annual revenue requirements or, if not, what the annual revenue requirement impacts associated with the Companies' proposals would be. This information should be compiled and stated clearly in any Order that addresses the Petition.

[23] Proactive Planning Order at 9.

With respect to cost allocation, NYSEG and RG&E would allocate their proposed "Electrification Capacity Surcharge" to service classes "based on delivery service revenues from the then current rate plan. The allocated amounts shall be recovered on a per kWh basis for non-demand billed customers, on a per-kW basis for demand billed customers, and on an as-used demand basis for standby service customers and optional demand service customers."[24] This apparently differs from the methodology advanced in the JU Proposal, where the Joint Utilities – including NYSEG and RG&E – proposed to maintain "cost allocation principles consistent with mechanisms under each utility's respective Commission rate case cost recovery requirements and/or tariffs."[25]

Multiple Intervenors opposes the Companies' cost allocation proposal to the extent that it might deviate from the cost-based principles that should drive the allocation of capital investments under their current rate plans and tariffs. The same principles that are utilized to allocate the costs of "traditional" infrastructure projects also should be utilized generally to allocate the costs of projects proposed to satisfy load driven by building and transportation electrification. Utilities should not employ certain principles and methodologies to allocate and recover infrastructure costs in rate proceedings and then employ different principles and methodologies for projects authorized in this proceeding. Rather, costs authorized in this proceeding should be allocated and recovered consistently with how similar infrastructure project costs would be allocated and recovered in rate proceedings. For instance, infrastructure projects intended to increase transmission capacity – whether for electrification purposes or otherwise – generally should be allocated to all service classes based on a demand allocator. Additionally, infrastructure projects intended to increase distribution capacity – whether for

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[24] Petition at 38-39.

[25] JU Proposal at 8.

electrification purposes or otherwise – generally should be allocated solely to classes served off of the distribution system, again based on a demand allocator. Customers served off the transmission system derive no benefit from distribution system infrastructure projects and, therefore, should not be allocated costs associated with such projects, consistent with decades of cost-based regulation.

With respect to cost recovery, the Companies propose that the Commission: (1) pre-approve cost recovery for the Proposed Upgrades; (2) authorize cost recovery via a new "Electrification Capacity Surcharge" included within an existing line item on the bill; and (3) provide NYSEG and RG&E with 100% CWIP in rate base, "or a similar cash flow recovery mechanism while in construction, that can provide for cash recovery of the financing costs associated with making the investments as they are incurred."[26] The Companies also seek "an early start to the recovery of depreciation expense ("Accelerated Depreciation") to support the incremental investments" proposed in the Petition.[27] As proposed, NYSEG and RG&E would begin to recover depreciation expense from the start of construction rather than follow the traditional ratemaking practice of beginning to recover depreciation expense when the asset is placed in service.[28] The Companies further propose to continue utilizing the Electrification Capacity Surcharge to recover costs until "the next rate plan that is adopted following the year in which the project is placed into service."[29]

Multiple Intervenors has both general and specific concerns regarding the Companies' cost recovery proposals. In general, the Commission historically does not pre-approve cost

[26] Petition at 34.

[27] *Id*. at 37.

[28] *Id*.

[29] *Id*.

recovery for capital projects. In rate proceedings, for instance, the Commission adopts or approves a revenue requirement that reflects the revenue requirement impacts of capital expenditure budgets and the utilities generally must proceed prudently or risk disallowance. If the Commission elects to authorize the development and construction of certain Project Upgrades in this proceeding and outside the normal ratemaking process, it should do so without any pre-guarantees of cost recovery or, at a minimum, limit any guarantee of recovery to specific amounts and subject to the accuracy of the information submitted by the Companies in support of the Project Upgrades. Commission approval of projects should provide the necessary assurances that costs incurred on the development and construction of Project Upgrades will be recoverable subject to any findings of imprudence.

Multiple Intervenors opposes utilizing surcharges for the recovery of the costs associated with the Project Upgrades. In the normal course, (i) infrastructure projects are completed, (ii) when that occurs, utilities are allowed to earn a return of and on their investments, and (iii) cost recovery from customers is deferred until base rates are next reset. Typically, utilities are not authorized to start surcharging customers every time an infrastructure project is completed between rate proceedings and it is not clear why a different outcome here might be warranted.

The Commission should be aware that, from the perspective of customers, there are some potential pros and numerous potential cons associated with multi-year rate plans. One of the biggest benefits of such plans is that they provide – or purport to provide – rate certainty for customers. For instance, there is a benefit to large, energy-intensive customers of knowing and being able to budget for electric and gas delivery costs. Allowing NYSEG and RG&E to propose and then potentially recover incremental costs via surcharges, on top of the enormous annual delivery rate increases already embedded in the Companies' current multi-year rate plans and securitization-related surcharges, undermines the benefit of rate certainty and renders multi-year rate plans much less attractive. The costs of authorized Project Upgrades should be recovered via base rates, consistent with how the costs of other infrastructure project costs are recovered.

The cost recovery mechanisms specifically proposed by the Company also should be rejected because they would shift all project risk onto customers, exacerbate rate impacts through accelerated recovery, and establish precedent that could justify similar shifting of cost and risk to the detriment of customers in the future. The Companies seek to recover Project Upgrade costs through the Electrification Capacity Surcharge that would be embedded in an existing line item on the bill. The Commission should reject the surcharge proposal for the reasons explained above. However, if the Commission instead were to approve the Surcharge notwithstanding Multiple Intervenors' arguments to the contrary, then it should direct the Companies to include it as a new line item on customer bills for the sake of transparency. The Electrification Capacity Surcharge, if approved, would be a temporary recovery mechanism and it should be tracked independently on bills so that customers can readily understand the progression and impact of utility investments in Proposed Upgrades that might be approved.

The Companies seek approval of several proposals that are counter to standard ratemaking practice and should be rejected. These proposals are to (i) provide 100% CWIP in rate base or a similar cash flow recovery mechanism that would recover financing costs associated with the capital investments as they are made, and (ii) begin recovering depreciation expense before the assets are placed in service. Utilities typically cannot begin recovering their capital investments until the subject assets are placed into service. Overturning that practice here, as requested but inadequately supported, would disincentive careful management of capital expenditures to keep projects on schedule and within budget. It also would impose rate increases on customers against the backdrop of three enormous, consecutive annual delivery rate increases and the prospect of material rate increases in the near future.

The Companies emphasize repeatedly in the Petition that their ability to deliver the Proposed Upgrades is dependent on approval of the aggressive cost recovery mechanisms they propose. According to NYSEG and RG&E, this condition stems from the pressure on cash flows and credit metrics imposed in part by increasing capital investment demands to promote State decarbonization goals and growing customer arrears. If the Commission investigates the Companies' cash flow and credit metric concerns and confirms that these statements are accurate, then the statements should be viewed as a warning sign that utility spending on State policy objectives already is placing excessive strain on customers and utilities alike and a modification (if not reversal) in course is needed. If the statements are exaggerated, then they should be rejected as a bully tactic intended to help secure extraordinary ratemaking treatment not typically afforded to utilities undertaking infrastructure projects.

Finally, NYSEG and RG&E also propose to continue utilizing the Electrification Capacity Surcharge to recover costs until "the next rate plan that is adopted following the year in which the project is placed into service."[30] To the extent that special ratemaking treatment of the Proposed Upgrades might be considered despite the weight of arguments against such action, the Electrification Capacity Surcharge should be viewed as a stop-gap measure that provides a measure of financial support for the Companies only until rates can be reset. Considering that the Proposed Upgrades have projected in-service dates that range from 2028 to 2031 and the Companies soon could file a rate proceeding that leads to a new three-year rate plan extending

[30] Petition at 37.

from May 1, 2026 through April 30, 2029, the Surcharge to recover capital investments on a current basis could be in place for six years or more under the Companies' proposals.

For the foregoing reasons, the Commission should not approve extraordinary cost recovery mechanisms such as those proposed by the Companies, particularly at a time when residential and non-residential customers already are struggling to keep up with steadily-increasing utility rates. Such approval would be inconsistent with, and undermine, recent statements by Governor Hochul which emphasize that utility costs must be brought under control, and money put back into the pockets of customers rather than taken out of them.

## CONCLUSION

For the reasons set forth herein, Multiple Intervenors urges the Commission to adopt the positions advanced in these Comments.

Dated: March 10, 2025
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