

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
New York on December 15, 2016

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Gregg C. Sayre
Diane X. Burman

CASE 15-G-0171 - In the Matter of a Natural Gas Incident at 310
Paige Street, Schenectady on August 10, 2014,
in the Service Territory of Niagara Mohawk
Power Corporation d/b/a National Grid.

ORDER ON CONSIDERATION OF JOINT PROPOSAL

(Issued and Effective December 16, 2016)

BY THE COMMISSION:

INTRODUCTION

On August 10, 2014, an explosion occurred in an unoccupied residential property at 310 Paige Street in Schenectady. The explosion destroyed completely the property. The property was unoccupied at the time of the explosion, and, fortunately, no personal injuries or deaths resulted from the explosion. The source of the explosion was determined to be natural gas which was delivered to this address through a gas service owned, operated and maintained by Niagara Mohawk Power Corporation d/b/a National Grid (Niagara Mohawk or the Company).

This case was commenced to secure an administrative penalty pursuant to Public Service Law § 25-a from the Company for its actions in connection with the gas service supplied to this address at the time of this explosion. Rather than litigate the matter, the Company and Department of Public Service Staff

(Staff) negotiated a resolution embodied in a Joint Proposal filed in June 2016.

As discussed below, while the new practices and procedures recommended in the Joint Proposal are acceptable and in the public interest, the monetary terms are not. We describe below a modification to the terms recommended in the Joint Proposal which, if accepted, would make the resolution of this case acceptable. If the Company accepts this modification, the Company would be directed to implement the resulting resolution, and no further order by the Commission would be necessary. If the Company does not accept the modification, the Company and Staff would return to the litigation of this matter as described in our May 2015 Order.¹

BACKGROUND

The Department of Public Service investigated the Paige Street explosion to identify the circumstances or conduct that led to this incident, and, in particular, whether or to what extent the conduct of Niagara Mohawk caused or contributed to this explosion. The Department's investigation culminated in an Incident Investigation Report dated April 1, 2015.² Based on the Incident Investigation Report, we issued our May 2015 Order to institute this proceeding to collect an administrative penalty pursuant to Public Service Law (PSL) § 25-a.

Penalties are assessable under subdivision (4) of section 25-a of the statute when two conditions are present: first, a company must be shown to have violated a statute, regulation or order that is either part of our Code of Gas

¹ Order and Notice Initiating Proceeding Pursuant to Public Service Law § 25-a (issued May 15, 2015) (May 2015 Order).

² The Department's Incident Investigation Report was filed in our Document and Matter Management system on July 1, 2015.

Safety regulations or was "adopted for the protection of human safety or prevention of significant damage to real property."³ Second, the incident must have caused or contributed to a death or personal injury or to real property damages in excess of \$50,000.⁴

The May 2015 Order identified two potential violations of our Code of Gas Safety regulations. The first was a violation of 16 NYCRR § 255.727(d), which required Niagara Mohawk to disconnect or lock the service to 310 Paige Street when the gas service to the building was discontinued. The second was a violation of 16 NYCRR § 255.603(d) which required the Company to follow its own procedures for discontinuing gas service to this address.

The maximum forfeiture under PSL § 25-a(4) is expressed in the alternative as an amount not to exceed the greater of either:

two hundred fifty thousand dollars, or three one-hundredths of one percent of the annual intrastate gross operating revenue of the corporation, not including taxes paid to and revenues collected on behalf of government entities

for each separate and distinct offense. In the May 2015 Order, we calculated that the maximum penalty for Niagara Mohawk in this case would be \$500,000 "unless the facts adduced at hearing support a higher penalty."⁵

³ PSL § 25-a(4).

⁴ Id. The Staff Incident Investigation Report indicates that the value of the property before the explosion was reported by Niagara Mohawk to be \$140,000 and that the structure at 310 Paige Street was completely destroyed.

⁵ May 2015 Order at 2.

Shortly after the issuance of our Order, Staff and the Company met to determine whether the issues presented by this case could be addressed through settlement, and each expressed their conclusion that settlement was possible.⁶ Negotiations ensued, and, on June 7, 2016, Staff and the Company submitted a Joint Proposal signed by each.⁷

THE JOINT PROPOSAL

The Joint Proposal here is brought to resolve a PSL § 25-a case, and this is the first time that we have considered a Joint Proposal in this procedural context. Nevertheless, we consider the significance of the Joint Proposal to be the same as that attributed to Joint Proposals submitted to us in other cases. In particular, we note that, like other Joint Proposals we have reviewed, this Joint Proposal is, at most, the recommendations of those who support it. Thus, the execution of the Joint Proposal, and its submission and support by Staff and the Company, do not and cannot "resolve" this case until the Commission has reviewed and adopted these recommendations in whole or in part through an order. Similarly, if, and to the extent that, we adopt the recommendations of the Joint Proposal in our Order, we retain all of our existing authority to enforce all of the recommendations that we have thus adopted, and this authority is neither enhanced nor limited by a provision of the Joint Proposal that purports to provide a "reservation" of enforcement authority.

By its express terms, the Joint Proposal recites several commitments by the Company to enhance the procedures,

⁶ Transcript of September 17, 2015 Procedural Conference at 4.

⁷ The Joint Proposal is attached to this order as Attachment A. On June 16 and 17, Staff and the Company, respectively, submitted Statements in Support of the Joint Proposal.

practices, and equipment on which it will rely to safely terminate the delivery of residential gas service to properties where, pursuant to the customer's request, the service will be discontinued. Specifically, the Joint Proposal recommends the adoption by Niagara Mohawk of several practices and procedures designed to improve its ability to identify properties where gas service is not, but should be, locked. These measures call for improved call center scripts and procedures, improved gas usage data analysis, and improved monitoring to identify vacant properties. Further, the Joint Proposal recommends that the Company adopt a practice to relocate, where feasible, gas meters from inside to outside the premises when replacing or relocating a gas service line.

Finally, the Joint Proposal would require Niagara Mohawk shareholders to provide \$500,000 to pay for a pilot program to evaluate "remote meter valve technology." This technology would allow the Company to discontinue the delivery of gas to the customer and lock the meter even if the meter and/or the locking device are or would be located within the customer's premises. Pursuant to the Joint Proposal, the parties recommend that a regulatory liability at shareholder expense would be used to fund the proposed remote meter valve technology pilot program.⁸ Pursuant to the Joint Proposal, and to assure that this funding will inure fully and entirely to the benefit of ratepayers, the funding would be supplemental to "any existing research and development budget items focused on remote

⁸ The Joint Proposal refers to the funding for the remote meter valve technology pilot program as the result of the creation of a "deferral". In this Order, we will refer to this funding as a "regulatory liability".

valves.”⁹ In addition, the Company will report on a specified schedule as to the status of the project.¹⁰

In the Joint Proposal, Staff and the Company agree that the execution of the Joint Proposal is not an admission of liability by the Company. The Company and Staff also agree that any violation of law is expressly denied.¹¹ Finally, the Joint Proposal further provides that the \$500,000 regulatory liability for the benefit of customers, as set forth in the Joint Proposal, is not a penalty.¹²

DISCUSSION

Application of Settlement Guidelines. Our guidelines for the evaluation of Joint Proposals, in general, identify three criteria which could be used to assess the extent to which the recommendations found in a Joint Proposal are coincident with the public interest.¹³ These three factors are:

1. A balance of the protection of ratepayers, fairness to investors, and long term viability of the utility,

⁹ Joint Proposal at 2

¹⁰ The remote valve pilot project to which this deferral would be dedicated could extend for a year or more. Accordingly, the proposed deferral would be administered like other multi-year deferrals maintained by the Company for the benefit of customers, and the Company would accrue carrying charges on the regulatory liability balances calculated using the pre-tax weighted average cost of capital. See, Cases 12-E-0201, 12-G-0202 - Niagara Mohawk Power Corporation d/b/a National Grid, Rates for Electric Service and for Gas Service, Appendix A at 35, 42.

¹¹ Joint Proposal, para. 8.

¹² Id. at para. 4.

¹³ Commission’s “Procedural Guidelines for Settlements” at Cases 90-M-0225 and 92-M-0138 - Procedures for Settlement and Stipulation Agreements, Settlement Procedures, as filed in Case 11175, Opinion 92-2, dated March 24, 1992, at Appendix B.

2. Consistency with environmental, social, economic policy
3. Results within the range of likely litigation outcomes.

Balance of ratepayer, investor, and utility interests.

For the first of the Settlement Guidelines, we must be concerned with the protection of ratepayers, shareholders and the utility. In the Joint Proposal recommendations, the protection of ratepayer interests is found in the non-monetary measures described above by which the Company will improve its ability to identify residential properties where the gas service should be, but is not yet, locked. Similarly, the Joint Proposal includes the Company's commitment to use best efforts to relocate the gas meter from inside to outside the customer's premises which will improve the Company's ability to lock the gas service even when access to the premises is unavailable. Further, the Joint Proposal recommendations are also careful to assign the costs of the pilot program for remote meter valves to shareholders for the benefit of ratepayers and also provides that this funding will not supplant research or development funding that is already focused on the development of this technology.

This first settlement guideline also focuses on fairness to utility investors and to the utility's long term viability. In the context of this matter, we conclude that considerations of fairness are best reflected in the statutory procedures we have followed in developing this case. Under these procedures, the utility was provided with a robust opportunity to proceed by way of litigation, rather than settlement, but elected to join with Staff in support of the recommendations in the Joint Proposal. In addition, we are advised that the financial impact of the regulatory liability we are considering in this case (less than 10 basis points) is far

below a level that would affect the Company's long term viability.

Consistency with environmental, social, economic policy. Natural gas is an efficient, convenient and economical fuel. At the same time, when not handled safely, this fuel can be responsible for explosions large enough to destroy the structure to which natural gas service is being provided. To address the potential dangers associated with natural gas service, the utility supplying gas service is required by our statute to provide "safe and adequate" service, and utilities have had this responsibility at least since the enactment of the Public Service Law in 1910.¹⁴

To better foster compliance with the utility's fundamental responsibility to provide safe service, Staff has developed, and we have adopted, our Code of Gas Safety.¹⁵ In developing the Code we are especially mindful of our fundamental objective to keep customers, utility workers and the general public safe. We are unaware of any circumstances where we would compromise our essential safety goals for the convenience of utility suppliers of natural gas.

Our Code of Gas Safety regulations is comprehensive and specific. It is susceptible to strict compliance, and we expect utilities to achieve the highest level of compliance. Indeed, compliance with the Code is one of the most important ways that utilities make gas service safe as required by our statute. Because of the direct relationship between the Code and customer safety, strict and uncompromised compliance with the Code provisions must be the touchstone for the Code's enforcement.

¹⁴ PSL § 65(1).

¹⁵ 16 NYCRR § 255.1 et seq.

Explicitly prescribed in the Code are the procedures that must be followed when a utility discontinues gas service to a residential address.¹⁶ In addition to compliance with the Code, each utility is required under our regulations to adopt and follow a detailed written operating and maintenance plan for complying with the Code.¹⁷

Under these procedures and to make safe the equipment that will remain on the premises after gas service is discontinued, the utility must either close a valve to prevent the flow of gas and install a "locking device" to prevent the unauthorized resumption of gas service to the premises, install a device to permanently block the passage of gas to the premises, or physically disconnect the customer's piping from the utility's service line.¹⁸ According to Staff's Incident Investigation Report, Niagara Mohawk did none of these.

¹⁶ 16 NYCRR § 255.727(d). The purpose of this regulation is to reduce or eliminate the hazards from explosion or fire which result when gas is released in an enclosed space such as a residential basement. The PSC's regulation defining the responsibilities of the gas utility to terminate service to an address where there is no customer of record was first adopted in New York in 1988. The New York regulation is a reflection of a similar federal regulation at 49 CFR Part 192.727 which was first adopted in 1972.

¹⁷ 16 NYCRR § 255.603(d). According to the Staff Report:

The second violation, 255.603(d), was identified because Niagara Mohawk failed to follow its own company procedure, e.g., "CMS3004, Turn On and Turn Off Gas Meters, Revision 1, dated 2/1/13."

Incident Investigation Report at 2.

¹⁸ Only the first of these three options actually involves a lock or locking device. For simplicity, we will label all three as a lock or locking device and note that the use of any of the three would be "locking gas service" or "locking the gas meter."

Taken together, our statute, the Code of Gas Safety, and the procedures specified in the Code for locking gas service when such service will be discontinued are a good reflection of our environmental, social, economic policies. The settlement of this case through the specification of additional non-monetary measures to further develop the utility's capability to be better aware of the premises where gas service has not been locked, but a request to discontinue service has been made, is an appropriate application of these policies to this case.

The new practices and procedures proposed in the Joint Proposal are described above and in the Company's Statement in Support of the Joint Proposal.¹⁹ As noted above, the initiatives described in the Joint Proposal or the Company's accompanying Statement in Support also include a Remote Meter Valve Pilot project. This Pilot project is for the benefit of ratepayers, and is in the public interest.²⁰ The Joint Proposal further recommends that the Pilot be funded through a \$500,000 regulatory liability established for the benefit of ratepayers.²¹

¹⁹ Statement of Niagara Mohawk Power Corporation d/b/a National Grid In Support of Joint Proposal at 6-7.

²⁰ The Joint Proposal's recommendations also include a reporting requirement under which the Company would set forth the status of the remote meter valve technology pilot program (and of the other initiatives discussed in the Paragraph 2 of the Joint Proposal) at 6, 12, and 24 months after the date of this Order and, if necessary, annually thereafter.

²¹ The remote valve pilot project to which this regulatory liability would be dedicated could extend for a year or more. Accordingly, the proposed regulatory liability would be administered like other multi-year funding maintained by the Company for the benefit of customers, and the Company would accrue carrying charges on the regulatory liability balances calculated using the pre-tax weighted average cost of capital. See, Cases 12-E-0201, 12-G-0202 - Niagara Mohawk Power Corporation d/b/a National Grid, Rates for Electric Service and for Gas Service, Appendix A at 35, 42.

While the remote meter valve pilot project will be in the public interest, we must also examine the acceptability of the \$500,000 regulatory liability for the benefit of ratepayers mechanism with which the project will be funded. Like the new practices and procedures recommended in the Joint Proposal, the \$500,000 regulatory liability also recommended to us must be found to be consistent with State and Commission policies. However, before assessing its consistency with State and Commission policies, we will first consider the proposed \$500,000 regulatory liability in light of the third element described in the Settlement Guidelines, i.e., whether the \$500,000 payment by shareholders falls within the range of likely litigation outcomes.

Range of Likely Litigation Outcomes. The final consideration described in our settlement guidelines is whether the settlement result falls within the range of likely litigation outcomes. In evaluating likely litigation outcomes, we are aware that PSL § 25-a is a recent addition to the Public Service Law. It reflects and extends a similar provision for judicial enforcement which is found in PSL § 25 and which was enacted more than 100 years ago.

With the enactment of Section 25-a, the Legislature has given us a new tool to shape the utility response to each customer's need to be safe and secure. We intend to use this tool to point our utilities' efforts towards strict compliance with our Gas Safety Code. When using this tool, it is important to recognize the significant role that monetary penalties can have in shaping a utility's response to regulatory requirements.

We are also aware that the public interest can be well served when, through negotiations, Staff and the Company identify non-monetary measures that can be undertaken by the Company to improve its safety performance. The new practices

and procedures identified in the Joint Proposal, however, do not justify a diminution in the economic penalty which we first outlined in our May 2015 Order and which began this case.

If this were a fully litigated case, the amount of the penalty imposed at the conclusion of the case should, pursuant to the statute, be based on an evaluation of certain statutory "factors" explicitly set forth in PSL § 25-a(2)(a).²² The first of these statutory factors assesses the "seriousness" of the violations. As explained, supra, locks and locking devices are, under our regulations, explicitly required when service is discontinued. This requirement is imposed because of the dangers that flow from the unintended release of gas in an unventilated space, such as a residential basement. Indeed, locked service makes the premises safe for customers, neighbors, unauthorized residents, those walking or passing by in a car on the street, and the utility workers themselves when they return to turn service back on. Accordingly, a failure to lock service at 310 Paige Street, would be a substantial and a very serious violation.

²² Specifically, the statute describes these five "factors" as:

- (i) the seriousness of the violation for which a penalty is sought;
- (ii) the nature and extent of any previous violations for which penalties have been assessed against the corporation or officer;
- (iii) whether there was knowledge of the violation;
- (iv) the gross revenues and financial status of the corporation; and
- (v) such other factors as the commission may deem appropriate and relevant.

PSL § 25-a(2)(a).

A second factor called out in the statute is the nature and extent of any previous violations. As pointed out in our May 2015 Order, there were two, separate incidents on Long Island in 2011 and 2012 involving a natural gas explosion at a residential property.²³ In these incidents, the penalty claim was resolved by a Joint Proposal and a subsequent Commission order pursuant to which the gas company involved in the incident agreed to make a substantial payment of shareholder funds.²⁴ Like the current case, each of these two cases concerned an explosion at a residential property, and considered the gas company's practices in locking the service to those properties. In the two Long Island cases, the company against which the penalty was sought was a different National Grid subsidiary (Keyspan Gas East Corporation d/b/a National Grid or "KEDLI") and not the National Grid subsidiary involved with the Paige Street explosion ("Niagara Mohawk").²⁵

²³ Case 14-G-0058 - Proceeding on Motion of the Commission to Investigate Whether a Penalty Should be Imposed on KeySpan Gas East Corporation, d/b/a National Grid for Violations of Certain Pipeline Safety Requirements Related to a Natural Gas Incident at 43 Fourth Street, Brentwood on April 24, 2011.

Case 14-G-0060 - Proceeding on Motion of the Commission to Investigate Whether a Penalty Should be Imposed on KeySpan Gas East Corporation, d/b/a National Grid for Violations of Certain Pipeline Safety Requirements Related to a Natural Gas Incident at 65 Feller Dr., Central Islip on July 10, 2012.

²⁴ Cases 14-G-0058 and 14-G-0060, *supra*, Order Approving Settlement Agreement (September 5, 2014).

²⁵ PSL § 25-a(2)(a) describes the second factor as involving "previous violations for which penalties have been assessed" against the gas or electric company. The two Long Island incidents referenced above directly involved KEDLI, and not Niagara Mohawk. However, even if not directly addressed under the second factor, these incidents could be considered by the Commission under the fourth statutory factor, discussed below.

A third statutory factor that could be considered when an administrative penalty is assessed under PSL § 25-a is a determination whether the Company "had knowledge of the violation."²⁶ In this case, according to the Incident Investigation Report, the Company dispatched workers to this property to investigate inactive gas meter usage and to lock off the service on at least six occasions between March 2013 and the date of the explosion in August 2014. Accordingly, the current record strongly suggests that the Company knew that the service to 310 Paige Street had not been locked when service was discontinued at that address in March 2013 and thereafter.

In addition to the three explicitly described statutory factors, the statute also recognizes a fourth factor under which the Commission considers "such other factors as the Commission may deem appropriate and relevant."²⁷ In this regard, the Company and Staff observe that the Company, subsequent to the earlier 2011 and 2012 incidents and subsequent to the Paige Street incident, took several actions to reduce the inventory of discontinued but still unlocked accounts. The Company reports that 99% of the discontinued but unlocked accounts in the Niagara Mohawk territory that existed at the time of the Paige Street incident are now locked or otherwise addressed and that 97% of the accounts that were discontinued (but not locked) after the date of the Paige Street incident have been locked or otherwise addressed.²⁸ While we welcome the Company's success in addressing its backlog of inactive, but not yet locked, accounts, we note that all of the measures described by the

²⁶ PSL 25-a(2)(a)(iii).

²⁷ PSL 25-a(2)(a)(v).

²⁸ Staff Statement in Support of Joint Proposal (June 16, 2016) at 3; Niagara Mohawk Statement in Support of Joint Proposal (June 17, 2016) at 5.

Company as contributing to this effort have been available to the Company all along.

In sum, we conclude that the application of the PSL § 25-a(2) factors in a litigated case would likely not result in the imposition of a penalty significantly lower than we described in the May 2015 Order.

Tax Benefits to Niagara Mohawk from Deferral. We are well aware, as we believe the Company is, that there is a significant difference in financial impact between characterizing the shareholder payment for the disposition of this case as a "penalty" and characterizing it as a regulatory liability for the benefit of ratepayers.²⁹ As described in our May 2015 Order, the amount of money that Staff was directed to seek from the Company as a penalty was \$500,000. However, if this money is characterized in settlement as a regulatory liability for the benefit of ratepayers, then the eventual use of those funds to pay for designated program expenses would be deductible for State and federal income tax purposes, and these deductions would provide a significant economic benefit to the Company's shareholders, allowing them to mitigate to a significant degree the impact of the \$500,000 payment. If, on the other hand, the shareholder payment, though used for exactly the same purpose, is compelled as a "penalty," then the income tax deduction would not be available and the financial impact of the \$500,000 regulatory liability would be undiminished.

²⁹ Apart from the financial impact differences discussed in the text, we recognize that the imposition of a penalty, without the Company's consent, would be achieved only after an evidentiary hearing and after the briefing of contested issues for the Commission. Based on that record, the Commission would make a finding of liability and impose a penalty. In contrast, when the Company agrees to a deferral, it makes no admission of culpability, and there is no Commission finding to that effect.

We regard the economic impact on shareholders that results from the disposition of this case to be an essential element in the PSL § 25-a administrative enforcement scheme. Accordingly, we can only conclude that the regulatory liability for the benefit of ratepayers, as proposed in the Joint Proposal, is far from equivalent in financial effect to the penalty payment, contemplated by the statute and set forth in our May 2015 Order. While the non-penalty provisions of the Joint Proposal would be beneficial to ratepayers and are in the public interest, the conversion of the Company's liability from a penalty to a regulatory liability for the benefit of ratepayers is not sufficiently consistent with State and Commission policies that rely on a robust enforcement of our Code of Gas Safety and the deterrent effect of the penalties described in PSL § 25-a. To further those policies, we believe the impact on the Company's shareholders must be as great as a penalty would have been. Consequently, the recommendations expressed in the Joint Proposal must be rejected.

While the Joint Proposal as it is currently expressed cannot be approved, an adjustment to its current terms, which could make a final resolution of this matter acceptable, can be easily described. Specifically and assuming all other terms of the Joint Proposal were retained, we would approve a resolution of this case if, notwithstanding the potential opportunity to claim a deduction for State or federal income tax purposes, the Company agreed that it would not claim or attempt to claim such a deduction for any amount paid to satisfy all or part of the \$500,000 regulatory liability.

Outreach and education. While not relevant unless and until the financial impact from the implementation of the recommendations of the Joint Proposal are brought into alignment with the conclusions reached in this Order, we note here the

important role that outreach and education can play in rebuilding the public's confidence that the provision of natural gas service meets the statutory "safe and adequate" standard. Such reassurance would be most useful for customers who live in the vicinity of 310 Paige Street, who may have heard the explosion, and also observed firsthand the destruction of the house at that address.

For this reason, if the Company accepts the resolution suggested herein, we would further direct the Company to undertake, within 60 days and within the Company's existing outreach and education programs, a special outreach initiative targeted to the Paige Street community. In this initiative, the Company should focus its efforts on those customers who continue to live in the vicinity of 310 Paige Street. Through the use of public media, special mailings and, in particular, at least one community meeting in this neighborhood, the Company should describe for residents what happened in this incident, the measures that it has taken or will take pursuant to this Order to reduce or eliminate the possibility of future accidents of this nature, and what the community can do to reinforce the Company's efforts in this regard. DPS Staff should be consulted on and notified of all outreach efforts related to this incident.

CONCLUSION

Based on the foregoing discussion, we determine that the proposals set forth in the Joint Proposal, as discussed herein, are not, because of the reduced financial impact of the regulatory liability, in the public interest and do not represent a reasonable resolution of the issues raised in our May 15, 2015 Order and Notice Initiating Proceeding Pursuant to Public Service Law § 25-a. As discussed in the body of this Order, the non-monetary aspects of the Joint Proposal are

salutary, and the parties are commended for arriving at these terms. If the terms were supplemented by a commitment from the Company that it would agree not to seek a State or federal income tax deduction for any amounts spent to satisfy all or part of the \$500,000 regulatory liability described in the Joint Proposal, we would find such a resolution of this matter in the public interest and would approve it, with the further outreach requirement described above.

The Commission orders:

1. Within seven days of the date of this Order, Niagara Mohawk Power Corporation d/b/a National Grid may indicate by letter to the Secretary that it will accept the resolution of this matter as described in this order by implementing the non-monetary terms of the Joint Proposal, modified by a) its commitment not to seek a State or federal income tax deduction for any amounts spent to satisfy all or part of the \$500,000 regulatory liability described in the Joint Proposal, and b) its commitment to undertake an outreach effort to the Paige Street community as described in this Order. If such letter is provided, then the terms and commitments set forth in the attached Joint Proposal, modified as set forth in this Order and agreed in such letter, are approved and adopted as if set forth in full herein, and the Company is directed to implement such terms and commitments.

2. If Niagara Mohawk Power Corporation d/b/a National Grid does not, within seven days of the date of this Order, indicate by letter to the Secretary that the Company will accept the terms of the resolution of this matter as described in Ordering Clause 1, supra, then this matter is remanded to the Company and Staff to proceed with the administrative litigation of this case.

3. The Secretary in her sole discretion may extend any of the deadlines set forth in this order. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least one day prior to the affected deadline.

4. This proceeding is continued.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS
Secretary

Attachment A

Joint Proposal

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

**Case 15-G-0171 – In The Matter of a Natural Gas Incident at
310 Paige Street, Schenectady on August 20, 2014 in the
Service Territory of Niagara Mohawk Power Corporation
d/b/a National Grid**

JOINT PROPOSAL

This Joint Proposal (“Joint Proposal”), dated as of the 2nd day of June, 2016, is by and between the New York State Department of Public Service Staff (“DPS Staff”) and Niagara Mohawk Power Corporation d/b/a National Grid (“NMPC”), as each is further defined herein, collectively the “Parties.” The Effective Date will be the date of the Public Service Commission order approving this Joint Proposal.

On May 15, 2015, the Commission initiated a penalty proceeding against NMPC in Case 15-G-0171 (“Paige Street Proceeding”), pursuant to Public Service Law (“PSL”) §25-a, for alleged violations of the PSL and its associated gas safety regulations stemming from a natural gas incident that occurred at 310 Paige Street, Schenectady, New York on August 10, 2014. At the time of this incident, the gas account at 310 Paige Street was inactive but NMPC had not locked the gas service.

Following settlement discussions, the Parties agree to resolve the Paige Street Proceeding by this Joint Proposal.

1. Definitions

As used in this Joint Proposal, the following terms have the meanings set forth below:

- a. The “Commission” includes the Commission and its Chair, as defined in PSL §§4(1) and 12, and the individual Commissioners thereof.
- b. “NMPC” includes NMPC and its predecessors, successors and/or assigns.

2. Settlement Consideration

a. **Settlement Funds.** NMPC will create a deferral at shareholder expense in the amount of \$500,000 (“Settlement Funds”) to be used for the benefit of customers as described in this Joint Proposal.

b. **Remote Valve Pilot.** NMPC will use the Settlement Funds to install remote meter valve technology in a pilot program (“Remote Valve Pilot”). NMPC will develop the project scope and timeline for the Remote Valve Pilot in consultation with DPS Staff. This Remote Valve Pilot will involve the placement of valves in NMPC’s service territory and funding should be considered supplemental to any existing research and development budget items focused on remote valves.

i. NMPC will notify DPS Staff in writing when its expenditures for the Remote Valve Pilot reach \$500,000.

ii. NMPC will file with the Secretary of the Commission reports detailing the status of the Remote Valve Pilot, a breakdown of Settlement Funds spent, and the status of other items discussed in this section after six months, twelve months and twenty-four months of the Effective Date and annually thereafter (if applicable).

c. **Other Settlement Items.** Within 30 days of the Effective Date, NMPC will implement the following programs to address inactive gas accounts in its service territory.

i. **Call Center Script.** To the extent not already completed, NMPC will review and modify, in consultation with DPS Staff, its call center procedures and script for customers requesting service disconnections to include clear, direct questions designed to (i) elicit information on future use/occupancy of the premises and (ii) ensure that customers are informed as to the Company’s next steps to secure the meter. NMPC will submit the revised call center procedures and script to DPS Staff within two weeks of the Effective Date.

ii. **Gas Usage Data Analysis.** NMPC will monitor meter reading data for gas usage on inactive accounts. NMPC will actively investigate any inactive account for a meter lock/service cut when meter readings suggest the account is using gas.

iii. Vacant Properties. NMPC will begin developing communication protocols with local municipalities and/or counties in its service territory to assist NMPC in identifying vacant properties with active gas accounts. NMPC will file a report in one year, listing all communications with municipal and county government officials and any agreements reached. NMPC will initially contact the larger municipalities and counties with higher populations in its service territory.

iv. Inside Meters. NMPC agrees to move gas meters located inside the premises to outside the premises when replacing or relocating a gas service line, except in cases where (i) the customer refuses permission to relocate the meter outside, (ii) local building codes or similar regulations prohibit outside meters, (iii) exterior obstacles prevent meter relocation, or (iv) the gas meter should not be moved outside for safety reasons. Beginning December 2016, the Company will supplement its annual reporting on meter relocations to include, for the gas service lines relocated or replaced, the number of meters moved outside and, for the meters that were not moved outside, the specific reason why any meter was not moved. The Company will modify its procedures on this point within 90 days of the Effective Date and will provide the Department a copy of the new procedures.

3. Effectiveness and Enforcement of this Joint Proposal

Approval by the Commission is a condition precedent to the effectiveness of this Joint Proposal. In the event that NMPC fails to complete the requirements set forth in this Joint Proposal, the Commission reserves the right to seek enforcement of this Joint Proposal. Nothing herein shall prevent the Parties from seeking legal or equitable relief to enforce the terms of this Joint Proposal once it becomes effective.

4. Contribution

This Joint Proposal addresses only the specific incident underlying the Paige Street Proceeding and NMPC's agreement to defer the Settlement Funds for the purposes stated in this Joint Proposal does not resolve or address any other incident. The Settlement Funds, which will be invested consistent with this Joint Proposal, do not constitute a penalty.

5. Release and Waiver

The Commission agrees that it will fully and finally waive any right to seek penalties or to seek any other remedy at law or equity from NMPC, its affiliates, employees, officers, directors, agents and/or shareholders for any alleged penalty or liability arising out of or related to the Paige Street Proceeding.

6. Authority

The execution, delivery and performance of this Joint Proposal by each Party hereto are within its corporate or statutory powers, as appropriate, have been duly authorized by all necessary corporate or statutory action, and do not and will not (i) require any governing or governmental consent or approval, which has not been obtained, except for Commission approval of this Joint Proposal, (ii) contravene its organizational documents or enabling legislation, or (iii) violate applicable law.

7. Submission to the Commission

The Parties agree to request that the Commission adopt the terms of this Joint Proposal without modification. The Parties intend that this Joint Proposal will be adopted by the Commission as being in the public interest and agree individually to advocate its adoption by the Commission in its entirety and to act so as to expedite that result.

8. No Admission of Liability

The Parties agree that (i) the consideration and other terms of this Joint Proposal do not constitute an admission of liability by NMPC, (ii) any violation of law is expressly denied, and (iii) this Joint Proposal is a full and final settlement of all disputed claims relating to the Paige Street proceeding.

9. Counterparts

If this Joint Proposal is executed in counterparts, each counterpart shall be deemed an original and all counterparts so executed shall constitute one Joint Proposal binding on both Parties, notwithstanding that both of the Parties are not signatories to the same counterpart. This


Joint Proposal may be executed by original, facsimile or electronic signature, each of which shall be equally binding.

10. Public Statements/Press Releases

No press release concerning this Joint Proposal will be issued by either Party without the consent of the other as to the content and the timing.

IN WITNESS WHEREOF, each of the Parties hereto has executed this Joint Proposal as of the day and year first written above.

NEW YORK STATE DEPARTMENT OF PUBLIC SERVICE

By: 

Name: Diane T. Dean
Title: Assistant Counsel

NIAGARA MOHAWK POWER CORPORATION d/b/a NATIONAL GRID

By: 
PHILIP DESIRES, Asst General Counsel

Name: Catherine L. Nesser
Title: Vice President and Deputy General Counsel