STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of Eligibility Criteria for Energy Service Companies	**Case 15-M-0127**
Proceeding on Motion of the Commission to Assess Certain Aspects of the Residential and Small Non-Residential Retail Energy Markets	**Case 12-M-0476**
In the Matter of Retail Access Business Rules	**Case 98-M-1343**
In the Matter of Electronic Data Interchange	**Case 98-M-0667**

SAPA ID No. PSC-27-26-00013-P

Comments of the Retail Energy Supply Association in Response to the July 8, 2026 Notice of Proposed Rulemaking Regarding the Petition of the Joint Utilities for Cost Recovery and Other Relief Related to GBL § 349-d(9) and (10)

The Retail Energy Supply Association ("RESA")[1] welcomes the opportunity to provide comments in response to the above-referenced Notice of Proposed Rulemaking issued in the New York State Register on July 8, 2026 ("Notice"). The Notice was issued in response to the Petition

[1] The comments expressed in this filing represent the position of the RESA as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

of the Joint Utilities for Cost Recovery and Other Relief Related to GBL § 349-d(9) and (10) ("Petition"), filed on June 15, 2026 in the above-captioned matters.[2] RESA provides the following comments to the Notice and submits that before the Petition can be approved, the Joint Utilities should be directed to provide additional financial information, the proposed mechanism for compensation proposed by the Joint Utilities should be refined, a stakeholder meeting to discuss implementation of GBL §§ 349-d(9) and (10) should be convened, and the Joint Utilities should be stayed from taking action to implement the law until the Commission reviews and approves the request for cost recovery including the cost recovery mechanism.

INTRODUCTION

On December 19, 2025 and February 13, 2026, Governor Hochul signed legislation amending the General Business Law ("GBL") to require ESCO billing statements delivered to residential and small non-residential (mass market) customers include a "side-by-side comparison" of the price charged by the ESCO for commodity and the price charged to the customer for delivery service, and the price the customer would have paid for commodity and delivery service had the customer taken service from the utility.[3] The legislation also requires ESCOs to provide their mass market customers with a statement every 12 months comparing the price charged by the ESCO for commodity and for any energy related, value added ("ERVA") products with the price the customer would have paid had they taken both commodity and delivery service from the default

[2] The "Joint Utilities" are Consolidated Edison Company of New York, Inc. ("Con Edison"); Central Hudson Gas & Electric Corporation ("Central Hudson"); Niagara Mohawk Power Corporation d/b/a National Grid ("Niagara Mohawk"), KeySpan Gas East Corp. d/b/a National Grid ("KEDLI"), The Brooklyn Union Gas Company d/b/a National Grid NY ("KEDNY") (collectively, "National Grid"); National Fuel Gas Distribution Corporation ("NFG"); New York State Electric & Gas Corporation ("NYSEG"); Orange and Rockland Utilities, Inc. ("O&R"); and Rochester Gas and Electric Corporation ("RG&E").

[3] The 2025 amendments to GBL § 349-d (Chapter 685 of the Laws of 2025, effective June 17, 2026) were supplemented by chapter amendments in 2026 (Chapter 8 of the Laws of 2026) which added additional sections 9(b) and 10-a to GBL § 349-d but did not change the effective date of the law.

utility. Under GBL § 349-d(10-a), ESCOs "shall be responsible for any costs incurred by a utility corporation . . . to comply with" these GBL price comparison amendments, and provides that the manner of recovery is to be prescribed by the Commission. In addition, ESCOs may not recover the costs of compliance from any of their customers.

The amendments to GBL § 349-d were effective June 17, 2026. On June 10, 2026, the week before the effective date of the law, ESCOs were given a preview of the cost recovery plans that would be proposed by the Joint Utilities during a one-hour New York Electronic Data Interchange ("EDI") call. Five days after this call, and two days before the effective date of the amendments to GBL § 349-d, the Joint Utilities filed the Petition.

At the outset, there are aspects of the Petition with which RESA is in agreement. RESA does not question that there will likely be costs incurred by the Joint Utilities in order to implement changes and upgrades to their billing systems to provide the cost comparison information required by GBL § 349-d(9) to ESCO mass market customers on customer bills. Moreover, GBL § 349-d(10-a)(a) contains plain and undisputable language that ESCOs are responsible for any costs incurred by a utility to implement GBL § 349-d(9) and (10). RESA also agrees with the Joint Utilities regarding the exclusion of energy related, value added ("ERVA") products from any cost comparison calculation or bill information.[4]

However, GBL § 349-d(10-a)(a) is also clear that the manner of the utilities' cost recovery from ESCOs must be "in a manner prescribed by the Commission." In other words, approval of the Petition is a prerequisite to cost recovery for the Joint Utilities under GBL § 349-d(10-a)(a). RESA is concerned that the cost recovery calculation proposed by the Joint Utilities lacks detail regarding the individual costs associated with any required upgrades performed by the Joint

[4] Petition, 7.

Utilities. The Joint Utilities' proposals were designed without consultation with ESCOs or authorization from the Commission. These proposals could include costs for avoidable or unnecessary utility system changes, but as presented, it is not possible to determine the specific cost associated with the proposed change or upgrade. Rather than provide an itemized breakdown of costs, the Joint Utilities presented lump sum amounts that are sometimes combined with other companies, and a per-customer charge to ESCOs that is based in part on the number of ESCO customers in a utility service territory (and is not limited to mass market customers) and will be assessed against ESCOs who do not serve mass market customers in a utility service territory. Such a cost recovery mechanism confounds the actual cost of implementation of the law and creates a cross-subsidization scheme across the New York ESCO market that should not be allowed.

RESA members are concerned that some of the Joint Utilities require system upgrades to make determinations as to which ESCO customers are mass market, and which are not. ESCOs have had this responsibility for at least a decade.[5] In addition, recent legislation predating these amendments to GBL § 349-d required the utilities to identify small non-residential customers using virtually identical definitions to those used by ESCOs, and to have historical customer information readily available. Respectfully, costs that do not originate from the implementation of GBL §§ 349-d(9) and (10) should not be passed through to ESCOs.

RESA submits these comments with a goal of sharing additional information and providing suggested changes to the Joint Utilities' cost recovery calculation to ensure the correct customers are accounted for, and that the correct ESCOs are responsible for reimbursement of these costs to

[5] *See* Case 15-M-0127 *et al., In the Matter of Eligibility Criteria for Energy Service Companies*, Order Resetting Retail Energy Markets and Establishing Further Process (Issued February 23, 2016) ("Reset Order"), 14.

the Joint Utilities. To that end, and throughout these comments, RESA requests that a stakeholder meeting be convened to address the underlying system upgrades required and costs associated with these upgrades for each of the Joint Utilities, to ensure the cost recovery calculation and mechanism is appropriately tailored, and to ensure ESCOs and the Joint Utilities have all of the information necessary to implement the requirements of GBL §§ 349-d(9) and (10).

COMMENTS

I. THE PETITION SHOULD NOT BE GRANTED WITHOUT AMENDMENT AND FURTHER FINANCIAL PROOF FROM THE JOINT UTILITIES

A. The Joint Utilities Should Provide More Financial Information Before Any Cost Recovery is Approved

The Commission is designated with the authority to prescribe the manner in which the costs incurred by the State's utilities to implement GBL §§ 349-d(9)-(10) are recovered from ESCOs. Accordingly, the Petition includes brief summary information regarding each of the Joint Utilities' proposals for implementation of the law as well as an initial total cost for implementation, plus a per-customer cost and other details. RESA submits that, before the Commission approves cost recovery for the implementation of GBL §§ 349-d(9)-(10), the Joint Utilities should provide more granular and reliable financial data for review. While RESA does not doubt the Joint Utilities will incur costs close to those estimated in the Petition if their respective proposals are adopted without amendment, RESA also notes the Petition was not accompanied by any verification, workpapers, per-item estimates, or other information besides lump sum average anticipated total implementation costs, sometimes bundled among related utility companies and across commodities.

Respectfully, the unsupported assertions of estimated costs proffered in the Petition are not a sufficient basis for the Commission to determine whether these costs are the result of implementing GBL §§ 349-d(9)-(10). None of the Joint Utilities provided any financial documents to demonstrate the cost recovery requested is associated with the necessary upgrades. Moreover, as explained below, some of the implementation costs currently attributable to GBL §§ 349-d(9)-(10) may involve utility system changes already required by GBL § 349-d(7) as well as Public Service Law ("PSL") § 66-w, in which case, these costs should not be passed through to ESCOs.

In order to determine whether the costs incurred can and should be appropriately passed through to ESCOs, more detailed financial information, including workpapers and other associated schedules to justify the proposed cost recovery, should be provided. Ideally, this information would be shared in advance of a future stakeholder meeting, so ESCOs can review and share ideas that may help streamline implementation and reduce costs. Before the Commission grants any approval for cost recovery, RESA urges the Commission to demand and review more detailed financial information from the Joint Utilities in order to assist the Department, the ESCO community, and all other parties understand the source of the respective Joint Utilities' costs and their various methods for allocation of these costs.[6]

1. Granular Cost Information Should Be Provided to Support the Joint Utilities' Request for Initial Cost Recovery

RESA appreciates that GBL §§ 349-d(9)-(10) imposes unasked-for obligations on the Joint Utilities and acknowledges that in addition to essentially mandating changes to utility systems and the bills issued by the Joint Utilities on behalf of ESCOs, the law also imposes a silent obligation on the Joint Utilities: they must ask the Commission to approve their recovery of costs. RESA

[6] RESA submitted discovery requests to the respective Joint Utilities on August 24, 2026, requesting the additional financial information described here as well as other information to assist in determining how to appropriately allocate costs among ESCOs based on the customers served by the ESCO and the respective Joint Utility territory in which the ESCO serves customers. On September 2, the Joint Utilities asserted that the interrogatories were improper but also offered to answer questions outside the formal discovery process. RESA's discovery requests are attached as Exhibit A, and the September 2 response from the Joint Utilities is attached as Exhibit B. On September 3, 2026, RESA received informal responses from NYSEG and RG&E, as well as NFG, and on September 4, 2026, RESA received correspondence from Con Edison and O&R. These responses are attached as Exhibits C, D, and E, respectively.

acknowledges the effort, in and of itself, to file a joint petition to seek recovery of costs. RESA members are concerned that, perhaps in an effort to (understandably) minimize the costs of the Petition, the Joint Utilities may have consolidated or omitted important, relevant details that will help determine both the appropriate number of customers to consider for purposes of assessing cost recovery, as well as the ESCOs that should be responsible for the requested cost recovery.

Some of the Joint Utilities submitted combined proposals for cost recovery as part of the Petition. For example, Con Edison and O&R provided a combined "Implementation Plan Costs" document, which contains a total estimated cost of approximately $625,000 and a per customer charge of $1.76, based on approximately 355,00 mass market customer accounts. The footnotes to this proposal indicate in part that the total initial cost of $625,000 will be divided by Con Edison and O&R "based on the services performed for each company."[7] It is not clear what "services" are referenced here, and a further separation of costs between the two utilities cannot be determined based on the information available in the Petition. Other members of the Joint Utilities, notably National Grid and NYSEG/RG&E, submitted proposals with combined costs.[8] In addition, the Joint Utilities serving multiple commodities generally lumped together costs of implementation and did not provide separate costs for electric and gas. Ultimately, this may be the easiest and most equitable manner to assess costs for each of the respective Joint Utilities, but without more granular information breaking down the costs requested for reimbursement, it is not clear how the

[7] Petition, Appendix A, Con Edison and O&R Implementation Plan Costs, 2.

[8] Petition, Appendix A, Niagara Mohawk Power Corporation d/b/a National Grid, KeySpan Gas East Corporation d/b/a National Grid, The Brooklyn Union Gas Company d/b/a National Grid NY Implementation Plan for System and Operational Changes Required by General Business Law §§ 349-d(9) and (10) ("National Grid Implementation Plan"); NYSEG/RG&E Side-by-Side Bill Comparison Implementation and Cost Estimate ("NYSEG/RG&E Cost Estimate"). RESA also refers to Exhibit C, containing the informal email response of NYSEG and RG&E to RESA's requests for information, and notes that NYSEG and RG&E referred to the combined cost of $10.86 per customer provided in the Petition, and no per-customer charge specific to either utility is available.

Commission can make a determination regarding the appropriate mechanism for cost recovery without first understanding the genesis of the costs.

RESA respectfully submits that before any initial implementation cost is approved, each individual member of the Joint Utilities should provide cost recovery proposals that are individual to each company and commodity and include an itemized estimate, workpapers, and other necessary documents to support the request for cost recovery.

2. More Information is Needed to Understand Any Annual or Monthly Reconciliation Charges

The Joint Utilities expect to incur ongoing maintenance costs to ensure bill comparison information is provided and to ensure that ESCOs have the information needed to provide annual notices to their customers.[9] Accordingly, the Petition seeks to ensure the Joint Utilities can recover these costs through an annual reconciliation charge (for NFG, this charge would be monthly).[10] Before a future reconciliation charge is approved, RESA believes additional information should be provided, to the extent currently available, regarding estimated annual maintenance costs and the components of this cost. The annual reconciliation charge should include advance notice to ESCOs of the upcoming charge each year. In the case of NFG, once the monthly charge is established, ESCOs should be provided with advance notice of any changes to this monthly charge before implementation. Addressing a future reconciliation process now will eliminate confusion for ESCOs and the Joint Utilities down the road and provide for a more seamless implementation of the initial and ongoing recovery of costs for the Joint Utilities.

[9] Petition, *and see* Appendix A.

[10] Petition, 9.

RESA understands this future cost is difficult to determine until a cost recovery mechanism is designed, and requests that reconciliation charges for recovery of ongoing maintenance costs be discussed in a stakeholder meeting.

B. The Proposed Cost Recovery Mechanism Creates Cross Subsidization Across the Industry and Should Not Be Used

If the cost recovery mechanism proposed by the Joint Utilities in the Petition is implemented without change, costs among ESCOs will be divided in part based on a number of customers that are not impacted or affected by GBL §§ 349-d(9)-(10), and in addition, ESCOs that do not serve mass market customers will be unfairly saddled with the costs of implementation. Moreover, as explained above, the Joint Utilities presented financial information that is not clear as to how it is derived (whether it is based on mass market customers or all customers) and is bundled with related utility companies, making it difficult to determine two key issues: (1) which costs are appropriately recovered by which utility, and (2) which ESCOs should be responsible. RESA is also concerned that the proposed use of the purchase of receivables ("POR") programs to facilitate cost recovery, while efficient, may inadvertently triangulate ESCOs into a violation of GBL § 349-d(10-a)(a).

RESA does not object to the use of a per-customer charge that is assessed to an ESCO by a utility for implementation of the law but believes the cost recovery calculation should be tailored to and based on the number of mass-market customers in the utility's territory that are served by ESCOs as of the effective date of GBL §§ 349-d(9)-(10). The total number of customers (not just mass market customers) served by an ESCO in a given utility service territory is not relevant to the Joint Utilities' implementation of the law or their recovery of costs under the law.[11] Instead,

[11] To be clear, GBL § 349-d(10-a)(a) places responsibility on ESCOs for the costs of implementation of the law, and makes clear that "ESCOs shall not recovery any costs from customers related to compliance with subdivisions nine and ten of this section." GBL § 349-d(10-a)(b) makes clear that "customers" in the context of GBL §§ 349-d(10-a)

implementation costs should only be assessed by a utility to an ESCO serving mass market customers in that utility territory. In addition, implementation costs should not be assessed against an ESCO operating in a separate but related utility service territory (*i.e.*, an ESCO operating solely in Con Edison's territory should not be responsible for costs incurred by O&R).

ESCOs that do not serve mass market customers in a particular utility's service territory should not be responsible for the costs of implementation or involved in any way in that utility's recovery of costs under GBL §§ 349-d(9)-(10). Eliminating these ESCOs from the pool of entities responsible for the costs of implementing the law makes sense, as the customers served by these ESCOs are not mass market customers, are not impacted by the law, and are not driving the costs of implementing the law. ESCOs serving these customers should therefore not be responsible for any costs incurred by the Joint Utilities as a result of GBL §§ 349-d(9)-(10).

RESA also objects to the proposal to require all ESCOs to absorb the legal costs incurred by a utility if the utility has to take legal action due to an ESCO's nonpayment. First, any uncollectible costs associated with implementation of the law should not be the responsibility of ESCOs that do not serve mass market customers. Second, the Joint Utilities also demanded that any uncollectible implementation costs be billed to the other ESCOs in the utility's service territory. If the utility is made whole for its uncollectible costs by other ESCOs, there is no reason for a utility to seek recovery of attorneys' fees or other legal costs. The Joint Utilities can either collect the cost of implementation (and any associated costs incurred from such collection) from the defaulting ESCO or allocate the uncollectible portion to other ESCOs responsible for

refers to all customers receiving energy service from an ESCO. In other words, ESCOs cannot pass on any of the costs approved by the Commission for the implementation of GBL §§ 349-d(9)-(10) to any of their customers, regardless of customer class.

implementation costs, but they cannot recover these costs twice and expect ESCOs to pick up the check.

In order to ensure the cost recovery mechanism is equitably applied across the Joint Utilities' respective service territories and to ensure that ESCOs that do not serve mass market customers are not required to subsidize implementation costs for GBL §§ 349-d(9)-(10), RESA urges the Commission to convene a stakeholder discussion to allow the parties an opportunity to collaborate and discuss a revised cost recovery mechanism. This discussion should also include the manner in which potentially uncollectible implementation costs are addressed.

1. The Purchase of Receivables Program Should Not Be Used to Recover Costs Without Additional Revisions

RESA understands why the Joint Utilities propose to use their POR platforms to recover the costs of implementing GBL §§ 349-d(9)-(10) from ESCOs – it is an already established mechanism used by the Joint Utilities to facilitate billing and payment between the utilities and ESCOs. In theory, RESA supports this proposal; the POR system is already in use and understood by ESCOs and the Joint Utilities, and mass market customers are more likely to receive a consolidated bill from their utility than other customer classes, so this mechanism provides assurance to the Joint Utilities of repayment. However, RESA is concerned that unless the per-customer charge is isolated from the other POR components, ESCOs will not be able to differentiate the GBL §§ 349-d(9)-(10) implementation costs from the routine POR costs, and that as a result, ESCOs may inadvertently pass these costs on to customers in violation of GBL §§ 349-d(10-a)(a).

In order to avoid any situation where an ESCO unwittingly passes through implementation costs to customers in violation of the law, RESA requests that if the Joint Utilities are authorized to recover costs through their respective POR platforms, any charges associated with GBL § 349-d(9)-(10) be clearly separated from other POR costs.

C. The Joint Utilities Should Not Be Responsible For Determining ESCO Customer Classification

The Petition indicates the Joint Utilities either can, or seek to implement system upgrades, to determine which ESCO customers are "mass market," and which customers are outside this classification. This determination is important – as a threshold matter, the provisions of GBL §§ 349-d(9) and (10) apply only to customers that are either "residential utility service from an ESCO or a small non-residential customer, as that term is defined in [PSL § 66-w], receiving utility service from an ESCO."[12] These customers are collectively referred to as "mass market" customers.[13]

1. The Joint Utilities Previously Rejected an EDI Indicator to Determine Mass Market Customer Status

Early in the Reset Proceeding,[14] in response to a notice from the Commission requesting comments regarding "residential and small non-residential customers (mass market customers)," RESA suggested, among other things, that it would be "much more beneficial, for both customers

[12] GBL § 349-d(9)(b).

[13] *See* Reset Order, 4, note 2 ("Mass market customers include residential and small non-residential customers. Regarding the definition of 'small non-residential' customer, while the thresholds for electric demand billing vary somewhat by utility, the Commission will continue to define a small non-residential electric customer as a non-demand metered customer. Some parties commented that the proposed definition of small non-residential gas customer is too broad, and would include almost all non-residential gas customers. A few parties proposed usage threshold levels up to 1,000 MCFs. Great Eastern Energy proposed a threshold for the definition of small non-residential customer as at less than or equal to 750 dekatherms per year, which it states is approximately five times the energy usage for a single family residential home. Great Eastern Energy's proposal is adopted and small non-residential customers are defined as either a non-demand metered electric customer or a non-residential gas customer with annual gas consumption that does not exceed 750 dekatherms per year or the equivalent.").

[14] The "Reset Proceeding" generally refers to the Commission proceeding beginning with the Reset Order and including the subsequent motions, comments, reply comments, evidentiary hearing, and Commission Orders through which the Commission implemented restrictions on the types of products and services that ESCOs can offer to mass market customers. *See* Case 15-M-0127 *et al.*, *In the Matter of Eligibility Criteria for Energy Service Companies*, Notice of Evidentiary and Collaborative Tracks and Deadline for Initial Testimony and Exhibits (issued December 2, 2016).

and the market, to develop a simple Electronic Data Interchange ('EDI") indicator that identifies whether the customer is a mass-market customer."[15] In response to these comments, the Joint Utilities argued,

> RESA's argument should be rejected because the [Reset Order] requires ESCOs to determine which customers are entitled to price guarantees and to implement those guarantees. Moreover, ESCOs have the information to determine which customers qualify as 'mass market customers' pursuant to the Commission's Retail Access Resetting Order. **Given the Joint Utilities already provide information that would easily allow ESCOs to determine mass market customers**, RESA's request would also place an unnecessary burden and cost on utilities.[16]

RESA does agree that ESCOs had, and still have, more information than the Joint Utilities regarding their customers, and that ESCOs are obligated to ensure which customers are mass market customers. It appears that in the intervening years since the Reset Proceedings were initiated, the Joint Utilities changed their stance on the burden and obligation to determine which ESCO customers are mass market customers. While some of the Joint Utilities' concerns regarding burden are addressed by the language of GBL §§ 349-d(9)-(10), which charges ESCOs with the responsibility for costs incurred by the utilities to comply with the law, it is not clear why some of the Joint Utilities seem to have mechanisms in place to determine which ESCO customers are mass market, and some do not.

In any case, RESA's suggestion to implement an EDI protocol, developed with the input of New York ESCOs in collaboration with the Joint Utilities, was and is a viable solution to identify mass market customers. However, based on the Petition as well as the presentation and

---

[15] Case 15-M-0127 *et al.*, *In the Matter of Eligibility Criteria for Energy Service Companies*, The Retail Energy Supply Association's Initial Comments on Resetting Energy Markets for Mass Market Customers (March 18, 2016) ("RESA Initial Comments") at 1 (*citing* Case 15-M-0127 *et al.*, *In the Matter of Eligibility Criteria for Energy Service Companies*, Notice Seeking Comments on Resetting Retail Energy Markets for Mass Market Customers (issued February 23, 2016)), 12.

[16] Case 15-M-0127 *et al.*, *In the Matter of Eligibility Criteria for Energy Service Companies*, Reply Comments of the Joint Utilities ("Joint Utility Reply Comments") (April 4, 2016) at 6 (emphasis added).

discussion during the June 10, 2016 EDI call, it is clear that ESCO collaboration is missing from the Petition and is much needed in order to ensure that ESCO customer accounts subject to the "Aggregation Rule" are not mistakenly labeled as mass market accounts when these accounts are incidental to a larger, non-mass market account (and therefore exempt from treatment as mass market customers).[17] Resolution of this issue could also assist the Commission in other aspects of regulating the ESCO market.[18]

2. The Utilities Are Not Equipped to Identify Incidental ESCO Accounts that are Aggregated with a Large Commercial ESCO Customer Account

Less than a week before the Petition was filed, the Joint Utilities provided a presentation to the New York EDI Working Group with each of the Joint Utilities' respective implementation plans for GBL §§ 349-d(9)-(10). During the June 10, 2026 discussion, ESCO representatives raised concerns that the Joint Utilities were assuming the role and announcing the ability to determine which ESCO customers are mass market, and which customers are not. Of concern, the discussion revealed that the Aggregation Rule, a crucial piece of guidance provided by the Department to ESCOs in the wake of the Reset Order, was not part of the calculus of the Joint Utilities in determining whether a particular ESCO account should be considered mass market.

The Aggregation Rule can be found in the Staff Guidance document issued to assist ESCOs in understanding and implementing the Reset Order.[19] In pertinent part, the Staff Guidance

---

[17] *See* Case 15-M-0127 *et al.*, *In the Matter of Eligibility Criteria for Energy Service Companies*, Department of Public Service Staff Guidance Document for Compliance with the February 23, 2016 Order Resetting Retail Energy Markets and Establishing Further Process (issued March 2, 2016) ("Staff Guidance").

[18] *See* Case 24-M-0482, *Proceeding on Motion of the Commission to Seek Consequences Against Polaris Power Services LLC for Violations of the Uniform Business Practices*, Order Denying Rehearing and Reconsideration and Confirming Denial of Eligibility (issued December 23, 2025) ("Polaris Order"), 14-19.

[19] *See* Case 15-M-0127 *et al.*, *In the Matter of Eligibility Criteria for Energy Service Companies*, Order on Rehearing, Reconsideration, and Providing Clarification (September 18, 2020), 45 ("The Commission's definition of mass market set forth in the Reset Order was never challenged in litigation, and the definition was not a part of the limited number of ordering clauses that were annulled on procedural grounds.") (internal citations omitted).

explains that the document is intended to assist ESCOs in determining "whether a customer is a mass market customer." The Staff Guidance document provided the following definition for mass market customers:

> a. A residential electric or gas customer;
> b. A non-residential, non-demand metered electric customer (small non-residential electric customer). Customers with multiple meters are considered mass market customers for the purposes of the Order if all of their meters within a utility service territory are non-demand. Customers with multiple meters who have at least one demand meter within a utility service territory are not considered mass market customers for the purposes of the Order.
> c. A non-residential gas customer with annual gas consumption that does not exceed 750 dekatherms or MCFs per year (small non-residential gas customer). For customers with multiple meters, this threshold shall be calculated using the sum of all meters in the customer's name within a utility service territory.[20]

ESCOs also received guidance as to how they might determine whether a customer was or was not a mass market customer; for electric customers, the utilities were to provide information on which service classifications were demand-metered and which were not, and for gas customers, historic information from the utility or through EDI was recommended.[21]

ESCOs in New York have relied on the Staff Guidance for the past decade, and there has been no indication that the Staff Guidance is not reliable or has been overturned by the Commission since the effective date of GBL §§ 349-d(9)-(10). Based on the June 10, 2026 EDI discussion, it appears that the Joint Utilities did not consider the Aggregation Rule when the Petition was drafted. This means that unless the Joint Utilities' designation of ESCO customers is corrected to account for the Aggregation Rule, ESCOs will likely have confused customers who receive incorrect bill comparison information. In addition, because the Aggregation Rule likely was not taken into

[20] Staff Guidance, 3-4.

[21] Staff Guidance, 4.

account when the Petition was drafted and submitted, the estimated customer information and associated costs for implementation of GBL §§ 349-d(9)-(10) may not be accurate.[22] Given the passage of time since the Aggregation Rule was implemented, and the familiarity of ESCOs with this paradigm as compared to the Joint Utilities, RESA submits that a stakeholder meeting or collaborative would be beneficial to discuss a mechanism to ensure that ESCO customers are properly classified within the respective Joint Utilities billing frameworks with respect to their mass market designation.

D. The Utilities Were Required to Implement System Changes Pursuant Existing Law before the Effective Date of GBL §§ 349-d(9)-(10) and ESCOs Should Not Bear the Costs of Deferred Utility Upgrades

ESCOs should not be responsible for the costs of upgrading utility billing systems where the Joint Utilities were required – by law – to already have such upgrades in place. As explained below, there are two pre-existing laws that required the Joint Utilities to take certain actions and address certain upgrades to their billing systems with respect to the identification of customers and sharing the utility's current commodity price.

1. The Joint Utilities Were Already Required to Identify Small Non-Residential Customers Under the PSL

Prior to the passage of GBL §§ 349-d(9)-(10), the PSL was amended and the State's utilities were prohibited from charging small non-residential gas and electric customers for services unless the utility issued a monthly bill within three months from the end of the monthly billing period, with some exceptions.[23] This recent law provides a statutory definition for "small non-residential

[22] For example, in the Implementation Plan Costs for Con Edison and O&R, a footnote indicates that "mass market customer accounts" are "residential, gas service class-2, and small non-residential," most likely referring to customer classes. If there are ESCO customer meters in these respective customer classes that are incidental to a demand-metered account or aggregated with other non-residential gas accounts, these utilities could be incorrectly marking certain customers as mass market when they are not. *See* Petition, Appendix A.

[23] PSL § 66-w.

51393781.1

customer" as "non-residential electric customers that are non-demand billed customers and non-residential gas customers that use less than or equal to 750 dekatherms per year," which is generally consistent with the definitions provided in the Uniform Business Practices ("UBP") governing retail access in New York, as well as the Staff Guidance. These changes to the PSL were effective on June 19, 2024, almost two years to the day before the June 17, 2026 effective date for GBL §§ 349-d(9)-(10).

As a consequence of this earlier legislation, RESA submits that the Joint Utilities should already have mechanisms in place to determine whether their electric customers are demand-billed or not and should also already have mechanisms in place to determine whether their non-residential gas customers use less than or equal to 750 dekatherms per year. According to the Petition, however, some of the Joint Utilities included proposed system upgrades in their cost recovery proposals that should have been previously addressed. RESA refers to Appendix A of the Petition, which contains a summary of the costs and proposal of each of the respective Joint Utilities to implement the requirements of GBL §§ 349-d(9)-(10). Several of the Joint Utilities, including National Grid, NYSEG, and RG&E, indicated in their implementation plans that their cost recovery includes a mechanism to determine whether certain gas customers exceed the annual 750 dekatherm threshold or to otherwise distinguish small non-residential gas customers.[24] In other words, some of the proposed system upgrades are intended to assist utilities in identifying small non-residential gas customers for purposes of implementing GBL §§ 349-d(9)-(10), despite the utilities' pre-existing obligation under PSL § 66-w to ensure that small non-residential customers are not charged for service when they are not timely billed.[25]

---

[24] Petition, Appendix A, national Grid Implementation Plan, NYSEG/RG&E Cost Estimate.

[25] Based on the informal email response of Con Edison and O&R to RESA's discovery request, their cost estimate is expected to increase based in part on "changes associated with identifying streamlining identification of small non-residential customers." Exhibit E.

It is notable that the highest initial cost recovery was requested by NYSEG and RG&E, whose proposed per-customer charge of $10.83 is almost exactly three times higher than the next highest initial per-customer charge of $3.62 requested by National Grid.[26] In addition to NYSEG and RG&E's request to recover costs associated with "a new automated process to identify small commercial gas customers on an annual basis," these utilities also requested cost recovery to provide "hypothetical supply and tax calculations for 22 different electric and gas service classifications and sub-provisions." Respectfully, it is not clear why these functions are necessary to implement GBL §§ 349-d(9)-(10), as all of the Joint Utilities already provide monthly cost comparison information to the Commission, and not all customer classes are impacted by GBL §§ 349-d(9)-(10). RESA respectfully requests that more information be provided to better understand the source of these requests and the scope of cost recovery sought by all of the Joint Utilities.

RESA members note that ESCOs were directed to rely on EDI data and utility classification information for the past decade to determine whether or not a customer is mass market, and that it does not make sense, ten years later, that the utilities who provided this data to ESCOs cannot use this same data to make the same determination previously expected of ESCOs.[27]

2. The Joint Utilities Were Required to Provide Current Price Information to ESCOs as a Consequence of GBL § 349-d(7)

Three years ago, GBL § 349-d was amended to further define a "material change" for purposes of ESCO contracts with residential and door-to-door customers, and to specify the contents of any contract renewal notice provided to residential and door-to-door customers.[28]

---

[26] *See* Petition, Appendix A. National Grid's proposal covers Niagara Mohawk, KEDLI, and KEDNY; Con Edison and O&R requested a combined initial per-customer charge of $1.76; Central Hudson requested an initial per-customer charge of $1.09, and NFG requested an initial per-customer charge of $0.86.

[27] Staff Guidance, 4.

[28] GBL §§ 349-d(6) and (7), Chapter 482 of the Laws of 2023, effective March 18, 2024.

These renewal notices are required to include, among other information, ". . . the price that is charged by the customer's distribution utility . . ."[29]

Following its past protocol for implementing changes to the UBP as a result of amendments to GBL § 349-d, changes were proposed to the UBP by the Department,[30] interested stakeholders offered comments on this proposal,[31] and the Commission adopted an order adopting changes to the UBP that are generally consistent with the amendments to GBL §§ 349-d(6)-(7).[32] However, RESA and another party sought rehearing on this order, and RESA in particular requested rehearing regarding certain aspects of the amended UBP and the contents of the customer renewal notice.[33]

The requirements of GBL § 349-d(7) for customer renewal notices are intended to provide customers with information comparing an ESCO contract renewal offer price with the price charged by the customer's default utility. Despite the context of the notice and the clear need for a customer to compare a current ESCO price offering with a current utility price, the November 2025 Order instead requires ESCOs to utilize the 12-month trailing average price already shared by the Joint Utilities.[34]

---

[29] GBL § 349-d(7).

[30] Case 98-M-1343, *In the Matter of Retail Access Business Rules*, Staff Proposal RE Material Change and Renewal Notice Legislation (issued March 26, 2024).

[31] *See, e.g.*, Case 98-M-1343, *In the Matter of Retail Access Business Rules*, Family Energy Comments GBL 349-d Amendments (filed May 29, 2024), Joule Assets 349-d Comments (filed June 14, 2024), Sustainable Westchester Comments on 19-M-1343 Draft UBP Amendments (filed June 17, 2024), NRG SAPA Comments – Implementation of GBL 349-d (filed June 17, 2024), RESA Comments on Staff Proposal (filed June 17, 2024).

[32] Case 98-M-1343, *In the Matter of Retail Access Business Rules*, Order Adopting Modifications to the Uniform Business Practices (issued November 13, 2025) ("November 2025 Order").

[33] Case 98-M-1343, *In the Matter of Retail Access Business Rules*, RESA Petition for Rehearing, Request for Clarification and Motion for Stay (filed December 15, 2025) ("RESA Rehearing Petition"); Petition for Rehearing, Reconsideration and Clarification of M&R Energy Resources Corporation (filed December 15, 2025).

[34] November 2025 Order, 21-22 (*citing* Case 15-M-0127, *In the Matter of Eligibility Criteria for Energy Service Companies*, Order Adopting Changes to the Retail Access Market and Establishing Further Process (issued December 12, 2019) ("Reset II Order").

As of this writing, a determination on the RESA Rehearing Petition has not been provided. Regardless, RESA submits that GBL § 349-d(7) contains a pre-existing requirement for the utilities to share their current commodity price with ESCOs so ESCOs can include this information on customer renewal notices. Utilizing the utility's 12-month trailing average will create a distorted comparison signal for customers and does not provide useful information for customers trying to understand ESCO offerings in comparison to the current default utility rate.

Without more granular financial data from the Joint Utilities previously discussed, RESA cannot determine how much of the requested cost recovery of any of the Joint Utilities is devoted to upgrades that should have been made years ago. RESA submits that requests for costs of implementation of GBL §§ 349-d(9)-(10) should be denied if the request is for a cost the utility was already required to undertake, and requests that the issue of mass market customer classification be discussed in a stakeholder meeting so the Joint Utilities, ESCOs, Staff, and other interested parties can find a common understanding on the identification of these customers.

II. ADDITIONAL CONCERNS RAISED BY GBL §§ 349-D(9)-(10)

A. ESCOs Request Guidance Regarding the Annual Notice Requirements of GBL § 349-d(10)

In addition to providing on-bill cost comparison information to ESCO mass market customers, the new law also requires ESCOs to provide annual notices to their mass market customers comparing, among other things, the price charged for commodity service by the ESCO to the price the customer would have paid had the customer taken commodity service from the utility.[35] With respect to this annual notice requirement, however, the Petition is understandably

[35] GBL § 349-d(9)(a).

limited to the Joint Utilities' request for cost recovery for implementing any system upgrades needed to provide this information to ESCOs so ESCOs can issue the annual notice.

To implement this requirement, RESA members request that additional information or guidance be provided by the Department to ensure ESCOs comply with this requirement in a satisfactory manner. When GBL § 349-d was first adopted, and for every subsequent amendment of GBL § 349-d until this most recent amendment became law, the UBP was updated through a rulemaking process and sample forms and notices required by other portions of GBL § 349-d were made part of the requirements for ESCO eligibility and incorporated into the UBP.[36] As of this writing, ESCOs have not been provided with any guidance regarding the annual notice requirement, or any proposal from the Department regarding implementation of the law or proposed amendments to the UBP.

RESA acknowledges that GBL § 349-d is self-effectuating and no Commission action is required for its provisions to take effect. However, given the past practice of the Department and Commission with respect to this law, RESA requests the annual notice requirement, as well as its contents, be addressed in a stakeholder discussion, and that any required form of notice be included in a rulemaking proposal or amendment to the UBP so that ESCOs have the opportunity to review and comment before any form of annual notice is required. To the extent the Department and Commission remain silent on this obligation, RESA members will comply with the law and provide annual notices that comply with GBL § 349-d(10).

[36] *See* Case 98-M-1343, *In the Matter of Retail Access Business Rules*, Order Implementing Chapter 416 of the Laws of 2010 (issued December 17, 2010), Order Concerning Petitions for Rehearing or Clarification of Order Implementing Chapter 416 of the Laws of 2010 (issued June 15, 2012), *and see* November 2025 Order.

B. The Department Should Convene a Stakeholder Meeting

Throughout these comments, RESA has requested that a stakeholder meeting be convened to address implementation of this law and ensure that all parties have a fair understanding of the respective positions of the other parties. It is clear that RESA members are in a better position to assist the Joint Utilities in identifying mass market customers than the Joint Utilities anticipated, as RESA members and ESCOs have a decade of experience in identifying these customers using existing utility infrastructure. A stakeholder meeting would allow ESCOs to share these methods of identification with the Joint Utilities and perhaps eliminate some of the system upgrades requested. This stakeholder meeting could also address other important questions related to the implementation of GBL §§ 349-d(9)-(10) that are not raised in the Petition, such as the substance and form of the annual cost comparison notice that ESCOs must send to their mass market customers.

To address these and other issues arising from the implementation of GBL §§ 349-d(9)-(10), RESA respectfully requests that a stakeholder meeting be convened as soon as possible.

III. REQUEST FOR STAY

The Petition indicates that the Joint Utilities are working to implement the law and that once the changes proposed in each of the Joint Utilities' implementation plans are complete, "the bill comparison will begin to populate on the ESCO portion of the consolidated bill that is supplied by the utility. This could potentially occur prior to a Commission order is issued [sic] in response to this Petition."[37]

Based on the limited information provided in the Petition, the Joint Utilities may be implementing changes and anticipating reimbursement for costs and upgrades that have not been

[37] Petition, 2-3, note 6.

approved by the Commission. As the Joint Utilities understand, the Commission has the sole authority to approve of their request for cost recovery.[38] Implementation of billing changes, without any transparency into the cost of these changes or the knowledge that such costs can be recovered, should not be allowed without Commission approval. Otherwise, the Joint Utilities risk incurring costs that cannot be recovered from ESCOs.

CONCLUSION

RESA members reiterate that GBL § 349-d(10-a) unequivocally requires ESCOs to pay for the costs of implementing GBL §§ 349-d(9)-(10). RESA members respectfully submit, however, that ESCOs should not be used to subsidize utility billing system upgrades that were previously required by law. To ensure the Joint Utilities are fairly compensated, ESCOs are equitably assessed the costs of implementation, and that all parties have transparency into these costs and how they are calculated, RESA members submit that implementation of the law and the cost recovery mechanism should be addressed and discussed in a stakeholder meeting.

RESA urges the Commission to stay the Joint Utilities from undertaking efforts to implement GBL §§ 349-d(9)-(10) until their request for cost recovery can be reviewed, and respectfully requests the Department convene a stakeholder meeting to discuss appropriate cost recovery calculations and mechanisms to ensure a fair and equitable implementation of this law for all affected parties.

Respectfully submitted,

By: */s/ Gabrielle A. Figueroa*

Ekin Senlet
Barclay Damon LLP
80 State Street
Albany, New York 12207

[38] Petition, 7.

Tel: 518-429-4231
esenlet@barclaydamon.com

Gabrielle A. Figueroa
Barclay Damon LLP
1270 Avenue of the Americas, Suite 2310
New York, New York 10020
Tel: 212-784-5831
gfigueroa@barclaydamon.com

Counsel for the Retail Energy Supply Association

September 8, 2026

EXHIBIT A

Case 98-M-1343 *et al.*

In the Matter of Eligibility Criteria for Energy Services Companies

Date of Request: August 24, 2026

Date of Response: September 3, 2026

Requested by: Retail Energy Supply Association (RESA)

Requested of: The Joint Utilities

DEFINITIONS & INSTRUCTIONS

1. All requests for documents, records, and information, shall be construed to include any Word, Excel, or other computer spreadsheet models in original electronic format with all formulae intact and unlocked.

2. "DPS" or "Department" means the New York State Department of Public Service.

3. "ESCO" means Energy Service Company.

4. "Joint Utilities" means Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; KeySpan Gas East Corp. d/b/a National Grid; National Fuel Gas Distribution Corporation; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation d/b/a National Grid; Orange and Rockland Utilities, Inc.; Rochester Gas and Electric Corporation; and The Brooklyn Union Gas Company d/b/a National Grid NY.

5. "Central Hudson" means Central Hudson Gas & Electric Corporation.

6. "Con Edison" means Consolidated Edison Company of New York, Inc.

7. "KEDLI" means KeySpan Gas East Corp. d/b/a National Grid.

8. "National Fuel" means National Fuel Gas Distribution Corporation.

9. "NYSEG" means New York State Electric & Gas Corporation.

10. "National Grid" means Niagara Mohawk Power Corporation d/b/a National Grid.

11. "O&R" means Orange and Rockland Utilities, Inc.

12. "RG&E" means Rochester Gas and Electric Corporation.

13. “KEDNY” means The Brooklyn Union Gas Company d/b/a National Grid NY.

14. “Petition” means the Petition of the Joint Utilities for Cost Recovery and Other Relief Related to GBL § 349-d(9) and (10), filed on June 15, 2026 in Case 98-M-1343 *et al.*, *In the Matter of Retail Access Business Rules*.

15. “PSC” means the New York State Public Service Commission.

16. “GBL” means the General Business Law.

17. “Document” means documents or electronically stored information—including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation into a reasonably usable form.

18. “Communication” means the transmittal of information (in the form or facts, ideas, inquiries, or otherwise).

19. “Concerning” means relating to, referring to, describing, evidencing, or constituting.

20. The terms “all,” “any,” and “each” must be construed as encompassing any and all.

21. “Including” and “including, but not limited to” are used herein to illustrate documents that are responsive to a particular request. Phrases employing either term are not exhaustive of the materials sought and in no way limit the scope of any request.

22. The connectives “and” and “or” must be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

23. A verb tense includes all other tenses where the clear meaning is not distorted by the addition of another tense or tenses.

24. The use of the singular form or any word includes the plural and vice versa.

Case 98-M-1343 *et al.*

In the Matter of Eligibility Criteria for Energy Services Companies

INTERROGATORY/DOCUMENT REQUEST RESA-1

Date of Request: August 24, 2026

Date of Response: September 3, 2026

Request No.: RESA-1

Requested of: Consolidated Edison Company of New York, Inc.

Subject: Implementation of GBL § 349-d(9) and (10)

REQUEST:

1. Please provide Con Edison's company-specific estimated costs for implementation of GBL § 349-d(9) and (10).

2. Please provide all documents and workpapers supporting Con Edison's company-specific estimated costs for implementation of GBL § 349-d(9) and (10).

3. Please provide Con Edison's company-specific approximate per customer charge for implementation of GBL § 349-d(9) and (10).

4. Please provide all documents and workpapers supporting Con Edison's company-specific approximate per customer charge for implementation of GBL § 349-d(9) and (10).

5. Please provide the number of residential electric customers served by ESCOs in Con Edison's service territory.

6. Please provide the number of small non-residential electric customers served by ESCOs in Con Edison's service territory.

7. Please provide the total number of electric customers, regardless of service class, served by ESCOs in Con Edison's service territory.

8. Please provide the number of residential gas customers served by ESCOs in Con Edison's service territory.

9. Please provide the number of small non-residential gas customers served by ESCOs in Con Edison's service territory.

10. Please provide the total number of gas customers, regardless of service class, served by ESCOs in Con Edison's service territory.

11. Please provide the mechanism or process that Con Edison will use to determine if an ESCO customer is a residential electric customer.

12. Please provide the mechanism or process that Con Edison will use to determine if an ESCO customer is a residential gas customer.

13. Please provide the mechanism or process that Con Edison will use to determine if an ESCO customer is a small non-residential electric customer.

14. Please provide the mechanism or process that Con Edison will use to determine if an ESCO customer is a small non-residential gas customer.

15. Please provide the mechanism or process used by Con Edison to determine a customer's service classification.

16. Please provide all documents and communications exchanged by Con Edison with DPS regarding the implementation of GBL § 349-d(9) and (10) prior to the filing of the Petition.

17. Please provide all documents and communications exchanged by Con Edison with the other Joint Utilities regarding the implementation of GBL § 349-d(9) and (10) prior to the filing of the Petition.

18. Please describe which system changes will be implemented by Con Edison prior to Commission approval of the Petition, as indicated in footnote 6 on page 2 of the Petition.

19. Please provide all responses to discovery previously provided by Con Edison to other parties in this proceeding.

RESPONSE:

Name:___________________________________ **Date:__________________**

Case 98-M-1343 *et al.*

In the Matter of Eligibility Criteria for Energy Services Companies

Date of Request: August 24, 2026

Date of Response: September 3, 2026

Requested by: Retail Energy Supply Association (RESA)

Requested of: The Joint Utilities

DEFINITIONS & INSTRUCTIONS

1. All requests for documents, records, and information, shall be construed to include any Word, Excel, or other computer spreadsheet models in original electronic format with all formulae intact and unlocked.

2. “DPS” or “Department” means the New York State Department of Public Service.

3. “ESCO” means Energy Service Company.

4. “Joint Utilities” means Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; KeySpan Gas East Corp. d/b/a National Grid; National Fuel Gas Distribution Corporation; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation d/b/a National Grid; Orange and Rockland Utilities, Inc.; Rochester Gas and Electric Corporation; and The Brooklyn Union Gas Company d/b/a National Grid NY.

5. “Central Hudson” means Central Hudson Gas & Electric Corporation.

6. “Con Edison” means Consolidated Edison Company of New York, Inc.

7. “KEDLI” means KeySpan Gas East Corp. d/b/a National Grid.

8. “National Fuel” means National Fuel Gas Distribution Corporation.

9. “NYSEG” means New York State Electric & Gas Corporation.

10. “National Grid” means Niagara Mohawk Power Corporation d/b/a National Grid.

11. “O&R” means Orange and Rockland Utilities, Inc.

12. “RG&E” means Rochester Gas and Electric Corporation.

13. “KEDNY” means The Brooklyn Union Gas Company d/b/a National Grid NY.

14. “Petition” means the Petition of the Joint Utilities for Cost Recovery and Other Relief Related to GBL § 349-d(9) and (10), filed on June 15, 2026 in Case 98-M-1343 *et al.*, *In the Matter of Retail Access Business Rules*.

15. “PSC” means the New York State Public Service Commission.

16. “GBL” means the General Business Law.

17. “Document” means documents or electronically stored information—including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation into a reasonably usable form.

18. “Communication” means the transmittal of information (in the form or facts, ideas, inquiries, or otherwise).

19. “Concerning” means relating to, referring to, describing, evidencing, or constituting.

20. The terms “all,” “any,” and “each” must be construed as encompassing any and all.

21. “Including” and “including, but not limited to” are used herein to illustrate documents that are responsive to a particular request. Phrases employing either term are not exhaustive of the materials sought and in no way limit the scope of any request.

22. The connectives “and” and “or” must be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

23. A verb tense includes all other tenses where the clear meaning is not distorted by the addition of another tense or tenses.

24. The use of the singular form or any word includes the plural and vice versa.

Case 98-M-1343 *et al.*

In the Matter of Eligibility Criteria for Energy Services Companies

INTERROGATORY/DOCUMENT REQUEST RESA-2

Date of Request: August 24, 2026

Date of Response: September 3, 2026

Request No.: RESA-2

Requested of: Central Hudson Gas & Electric Corporation

Subject: Implementation of GBL § 349-d(9) and (10)

REQUEST:

1. Please provide all documents and workpapers supporting Central Hudson's estimated costs for implementation of GBL § 349-d(9) and (10).

2. Please provide the number of residential electric customers served by ESCOs in Central Hudson's service territory.

3. Please provide the number of small non-residential electric customers served by ESCOs in Central Hudson's service territory.

4. Please provide the total number of electric customers, regardless of service class, served by ESCOs in Central Hudson's service territory.

5. Please provide the number of residential gas customers served by ESCOs in Central Hudson's service territory.

6. Please provide the number of small non-residential gas customers served by ESCOs in Central Hudson's service territory.

7. Please provide the total number of gas customers, regardless of service class, served by ESCOs in Central Hudson's service territory.

8. Please provide the mechanism or process that Central Hudson will use to determine if an ESCO customer is a residential electric customer.

9. Please provide the mechanism or process that Central Hudson will use to determine if an ESCO customer is a residential gas customer.

10. Please provide the mechanism or process that Central Hudson will use to determine if an ESCO customer is a small non-residential electric customer.

11. Please provide the mechanism or process that Central Hudson will use to determine if an ESCO customer is a small non-residential gas customer.

12. Please provide the mechanism or process used by Central Hudson to determine a customer's service classification.

13. Please provide all documents and communications exchanged by Central Hudson with DPS regarding the implementation of GBL § 349-d(9) and (10) prior to the filing of the Petition.

14. Please provide all documents and communications exchanged by Central Hudson with the other Joint Utilities regarding the implementation of GBL § 349-d(9) and (10) prior to the filing of the Petition.

15. Please describe which system changes will be implemented by Central Hudson prior to Commission approval of the Petition, as indicated in footnote 6 on page 2 of the Petition.

16. Please provide all responses to discovery previously provided by Central Hudson to other parties in this proceeding.

RESPONSE:

Name:___________________________________ **Date:**__________________

Case 98-M-1343 *et al.*

In the Matter of Eligibility Criteria for Energy Services Companies

Date of Request: August 24, 2026

Date of Response: September 3, 2026

Requested by: Retail Energy Supply Association (RESA)

Requested of: The Joint Utilities

<u>DEFINITIONS & INSTRUCTIONS</u>

1. All requests for documents, records, and information, shall be construed to include any Word, Excel, or other computer spreadsheet models in original electronic format with all formulae intact and unlocked.

2. "DPS" or "Department" means the New York State Department of Public Service.

3. "ESCO" means Energy Service Company.

4. "Joint Utilities" means Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; KeySpan Gas East Corp. d/b/a National Grid; National Fuel Gas Distribution Corporation; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation d/b/a National Grid; Orange and Rockland Utilities, Inc.; Rochester Gas and Electric Corporation; and The Brooklyn Union Gas Company d/b/a National Grid NY.

5. "Central Hudson" means Central Hudson Gas & Electric Corporation.

6. "Con Edison" means Consolidated Edison Company of New York, Inc.

7. "KEDLI" means KeySpan Gas East Corp. d/b/a National Grid.

8. "National Fuel" means National Fuel Gas Distribution Corporation.

9. "NYSEG" means New York State Electric & Gas Corporation.

10. "National Grid" means Niagara Mohawk Power Corporation d/b/a National Grid.

11. "O&R" means Orange and Rockland Utilities, Inc.

12. "RG&E" means Rochester Gas and Electric Corporation.

13. “KEDNY” means The Brooklyn Union Gas Company d/b/a National Grid NY.

14. “Petition” means the Petition of the Joint Utilities for Cost Recovery and Other Relief Related to GBL § 349-d(9) and (10), filed on June 15, 2026 in Case 98-M-1343 *et al.*, *In the Matter of Retail Access Business Rules*.

15. “PSC” means the New York State Public Service Commission.

16. “GBL” means the General Business Law.

17. “Document” means documents or electronically stored information—including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation into a reasonably usable form.

18. “Communication” means the transmittal of information (in the form or facts, ideas, inquiries, or otherwise).

19. “Concerning” means relating to, referring to, describing, evidencing, or constituting.

20. The terms “all,” “any,” and “each” must be construed as encompassing any and all.

21. “Including” and “including, but not limited to” are used herein to illustrate documents that are responsive to a particular request. Phrases employing either term are not exhaustive of the materials sought and in no way limit the scope of any request.

22. The connectives “and” and “or” must be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

23. A verb tense includes all other tenses where the clear meaning is not distorted by the addition of another tense or tenses.

24. The use of the singular form or any word includes the plural and vice versa.

Case 98-M-1343 *et al.*

In the Matter of Eligibility Criteria for Energy Services Companies

INTERROGATORY/DOCUMENT REQUEST RESA-3

Date of Request: August 24, 2026

Date of Response: September 3, 2026

Request No.: RESA-3

Requested of: National Fuel Gas Distribution Corporation

Subject: Implementation of GBL § 349-d(9) and (10)

REQUEST:

1. Please provide all documents and workpapers supporting National Fuel's estimated costs for implementation of GBL § 349-d(9) and (10).

2. Please provide the number of residential gas customers served by ESCOs in National Fuel's service territory.

3. Please provide the number of small non-residential gas customers served by ESCOs in National Fuel's service territory.

4. Please provide the number of gas customers, regardless of service class, served by ESCOs in National Fuel's service territory.

5. Please provide the mechanism or process that National Fuel will use to determine if an ESCO customer is a residential customer.

6. Please provide the mechanism or process that National Fuel will use to determine if an ESCO customer is a small non-residential gas customer.

7. Please provide the mechanism or process used by National Fuel to determine a customer's service classification.

8. Please provide all documents and communications exchanged by National Fuel with DPS regarding the implementation of GBL § 349-d(9) and (10) prior to the filing of the Petition.

9. Please provide all documents and communications exchanged by National Fuel with the other Joint Utilities regarding the implementation of GBL § 349-d(9) and (10) prior to the filing of the Petition.

10. Please describe which system changes will be implemented by National Fuel prior to Commission approval of the Petition, as indicated in footnote 6 on page 2 of the Petition.

11. Please provide all responses to discovery previously provided by National Fuel to other parties in this proceeding.

RESPONSE:

Name:___________________________________ **Date:__________________**

Case 98-M-1343 *et al.*

In the Matter of Eligibility Criteria for Energy Services Companies

Date of Request: August 24, 2026

Date of Response: September 3, 2026

Requested by: Retail Energy Supply Association (RESA)

Requested of: The Joint Utilities

<u>DEFINITIONS & INSTRUCTIONS</u>

1. All requests for documents, records, and information, shall be construed to include any Word, Excel, or other computer spreadsheet models in original electronic format with all formulae intact and unlocked.

2. "DPS" or "Department" means the New York State Department of Public Service.

3. "ESCO" means Energy Service Company.

4. "Joint Utilities" means Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; KeySpan Gas East Corp. d/b/a National Grid; National Fuel Gas Distribution Corporation; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation d/b/a National Grid; Orange and Rockland Utilities, Inc.; Rochester Gas and Electric Corporation; and The Brooklyn Union Gas Company d/b/a National Grid NY.

5. "Central Hudson" means Central Hudson Gas & Electric Corporation.

6. "Con Edison" means Consolidated Edison Company of New York, Inc.

7. "KEDLI" means KeySpan Gas East Corp. d/b/a National Grid.

8. "National Fuel" means National Fuel Gas Distribution Corporation.

9. "NYSEG" means New York State Electric & Gas Corporation.

10. "National Grid" means Niagara Mohawk Power Corporation d/b/a National Grid.

11. "O&R" means Orange and Rockland Utilities, Inc.

12. "RG&E" means Rochester Gas and Electric Corporation.

13. “KEDNY” means The Brooklyn Union Gas Company d/b/a National Grid NY.

14. “Petition” means the Petition of the Joint Utilities for Cost Recovery and Other Relief Related to GBL § 349-d(9) and (10), filed on June 15, 2026 in Case 98-M-1343 *et al.*, *In the Matter of Retail Access Business Rules*.

15. “PSC” means the New York State Public Service Commission.

16. “GBL” means the General Business Law.

17. “Document” means documents or electronically stored information—including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation into a reasonably usable form.

18. “Communication” means the transmittal of information (in the form or facts, ideas, inquiries, or otherwise).

19. “Concerning” means relating to, referring to, describing, evidencing, or constituting.

20. The terms “all,” “any,” and “each” must be construed as encompassing any and all.

21. “Including” and “including, but not limited to” are used herein to illustrate documents that are responsive to a particular request. Phrases employing either term are not exhaustive of the materials sought and in no way limit the scope of any request.

22. The connectives “and” and “or” must be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

23. A verb tense includes all other tenses where the clear meaning is not distorted by the addition of another tense or tenses.

24. The use of the singular form or any word includes the plural and vice versa.

Case 98-M-1343 *et al.*

In the Matter of Eligibility Criteria for Energy Services Companies

INTERROGATORY/DOCUMENT REQUEST RESA-4

Date of Request: August 24, 2026

Date of Response: September 3, 2026

Request No.: RESA-4

Requested of: Niagara Mohawk Power Corporation d/b/a National Grid

Subject: Implementation of GBL § 349-d(9) and (10)

REQUEST:

1. Please provide National Grid's company-specific estimated costs for implementation of GBL § 349-d(9) and (10).

2. Please provide all documents and workpapers supporting National Grid's company-specific estimated costs for implementation of GBL § 349-d(9) and (10).

3. Please provide National Grid's company-specific approximate per customer charge for implementation of GBL § 349-d(9) and (10).

4. Please provide all documents and workpapers supporting National Grid's company-specific approximate per customer charge for implementation of GBL § 349-d(9) and (10).

5. Please provide the number of residential electric customers served by ESCOs in National Grid's service territory.

6. Please provide the number of small non-residential electric customers served by ESCOs in National Grid's service territory.

7. Please provide the total number of electric customers, regardless of service class, served by ESCOs in National Grid's service territory.

8. Please provide the number of residential gas customers served by ESCOs in National Grid's service territory.

9. Please provide the number of small non-residential gas customers served by ESCOs in National Grid's service territory.

10. Please provide the total number of gas customers, regardless of service class, served by ESCOs in National Grid's service territory.

11. Please provide the mechanism or process that National Grid will use to determine if an ESCO customer is a residential electric customer.

12. Please provide the mechanism or process that National Grid will use to determine if an ESCO customer is a residential gas customer.

13. Please provide the mechanism or process that National Grid will use to determine if an ESCO customer is a small non-residential electric customer.

14. Please provide the mechanism or process that National Grid will use to determine if an ESCO customer is a small non-residential gas customer.

15. Please provide the mechanism or process used by National Grid to determine a customer's service classification.

16. Please provide all documents and communications exchanged by National Grid with DPS regarding the implementation of GBL § 349-d(9) and (10) prior to the filing of the Petition.

17. Please provide all documents and communications exchanged by National Grid with the other Joint Utilities regarding the implementation of GBL § 349-d(9) and (10) prior to the filing of the Petition.

18. Please describe which system changes will be implemented by National Grid prior to Commission approval of the Petition, as indicated in footnote 6 on page 2 of the Petition.

19. Please provide all responses to discovery previously provided by National Grid to other parties in this proceeding.

RESPONSE:

Name:___________________________________ **Date:_________________**

Case 98-M-1343 *et al.*

In the Matter of Eligibility Criteria for Energy Services Companies

Date of Request: August 24, 2026

Date of Response: September 3, 2026

Requested by: Retail Energy Supply Association (RESA)

Requested of: The Joint Utilities

<u>DEFINITIONS & INSTRUCTIONS</u>

1. All requests for documents, records, and information, shall be construed to include any Word, Excel, or other computer spreadsheet models in original electronic format with all formulae intact and unlocked.

2. "DPS" or "Department" means the New York State Department of Public Service.

3. "ESCO" means Energy Service Company.

4. "Joint Utilities" means Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; KeySpan Gas East Corp. d/b/a National Grid; National Fuel Gas Distribution Corporation; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation d/b/a National Grid; Orange and Rockland Utilities, Inc.; Rochester Gas and Electric Corporation; and The Brooklyn Union Gas Company d/b/a National Grid NY.

5. "Central Hudson" means Central Hudson Gas & Electric Corporation.

6. "Con Edison" means Consolidated Edison Company of New York, Inc.

7. "KEDLI" means KeySpan Gas East Corp. d/b/a National Grid.

8. "National Fuel" means National Fuel Gas Distribution Corporation.

9. "NYSEG" means New York State Electric & Gas Corporation.

10. "National Grid" means Niagara Mohawk Power Corporation d/b/a National Grid.

11. "O&R" means Orange and Rockland Utilities, Inc.

12. "RG&E" means Rochester Gas and Electric Corporation.

13. “KEDNY” means The Brooklyn Union Gas Company d/b/a National Grid NY.

14. “Petition” means the Petition of the Joint Utilities for Cost Recovery and Other Relief Related to GBL § 349-d(9) and (10), filed on June 15, 2026 in Case 98-M-1343 *et al.*, *In the Matter of Retail Access Business Rules*.

15. “PSC” means the New York State Public Service Commission.

16. “GBL” means the General Business Law.

17. “Document” means documents or electronically stored information—including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation into a reasonably usable form.

18. “Communication” means the transmittal of information (in the form or facts, ideas, inquiries, or otherwise).

19. “Concerning” means relating to, referring to, describing, evidencing, or constituting.

20. The terms “all,” “any,” and “each” must be construed as encompassing any and all.

21. “Including” and “including, but not limited to” are used herein to illustrate documents that are responsive to a particular request. Phrases employing either term are not exhaustive of the materials sought and in no way limit the scope of any request.

22. The connectives “and” and “or” must be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

23. A verb tense includes all other tenses where the clear meaning is not distorted by the addition of another tense or tenses.

24. The use of the singular form or any word includes the plural and vice versa.

Case 98-M-1343 *et al.*

In the Matter of Eligibility Criteria for Energy Services Companies

INTERROGATORY/DOCUMENT REQUEST RESA-5

Date of Request: August 24, 2026

Date of Response: September 3, 2026

Request No.: RESA-5

Requested of: KeySpan Gas East Corporation d/b/a National Grid

Subject: Implementation of GBL § 349-d(9) and (10)

REQUEST:

1. Please provide KEDLI's company-specific estimated costs for implementation of GBL § 349-d(9) and (10).

2. Please provide all documents and workpapers supporting KEDLI's company-specific estimated costs for implementation of GBL § 349-d(9) and (10).

3. Please provide KEDLI's company-specific approximate per customer charge for implementation of GBL § 349-d(9) and (10).

4. Please provide all documents and workpapers supporting KEDLI's company-specific approximate per customer charge for implementation of GBL § 349-d(9) and (10).

5. Please provide the number of residential gas customers served by ESCOs in KEDLI's service territory.

6. Please provide the number of small non-residential gas customers served by ESCOs in KEDLI's service territory.

7. Please provide the number of gas customers, regardless of service class, served by ESCOs in KEDLI's service territory.

8. Please provide the mechanism or process that KEDLI will use to determine if an ESCO customer is a residential customer.

9. Please provide the mechanism or process that KEDLI will use to determine if an ESCO customer is a small non-residential gas customer.

10. Please provide the mechanism or process used by KEDLI to determine a customer's service classification.

11. Please provide all documents and communications exchanged by KEDLI with DPS regarding the implementation of GBL § 349-d(9) and (10) prior to the filing of the Petition.

12. Please provide all documents and communications exchanged by KEDLI with the other Joint Utilities regarding the implementation of GBL § 349-d(9) and (10) prior to the filing of the Petition.

13. Please describe which system changes will be implemented by KEDLI prior to Commission approval of the Petition, as indicated in footnote 6 on page 2 of the Petition.

14. Please provide all responses to discovery previously provided by KEDLI to other parties in this proceeding.

RESPONSE:

Name:___________________________________ **Date:**__________________

Case 98-M-1343 *et al.*

In the Matter of Eligibility Criteria for Energy Services Companies

Date of Request: August 24, 2026

Date of Response: September 3, 2026

Requested by: Retail Energy Supply Association (RESA)

Requested of: The Joint Utilities

DEFINITIONS & INSTRUCTIONS

1. All requests for documents, records, and information, shall be construed to include any Word, Excel, or other computer spreadsheet models in original electronic format with all formulae intact and unlocked.

2. "DPS" or "Department" means the New York State Department of Public Service.

3. "ESCO" means Energy Service Company.

4. "Joint Utilities" means Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; KeySpan Gas East Corp. d/b/a National Grid; National Fuel Gas Distribution Corporation; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation d/b/a National Grid; Orange and Rockland Utilities, Inc.; Rochester Gas and Electric Corporation; and The Brooklyn Union Gas Company d/b/a National Grid NY.

5. "Central Hudson" means Central Hudson Gas & Electric Corporation.

6. "Con Edison" means Consolidated Edison Company of New York, Inc.

7. "KEDLI" means KeySpan Gas East Corp. d/b/a National Grid.

8. "National Fuel" means National Fuel Gas Distribution Corporation.

9. "NYSEG" means New York State Electric & Gas Corporation.

10. "National Grid" means Niagara Mohawk Power Corporation d/b/a National Grid.

11. "O&R" means Orange and Rockland Utilities, Inc.

12. "RG&E" means Rochester Gas and Electric Corporation.

13. “KEDNY” means The Brooklyn Union Gas Company d/b/a National Grid NY.

14. “Petition” means the Petition of the Joint Utilities for Cost Recovery and Other Relief Related to GBL § 349-d(9) and (10), filed on June 15, 2026 in Case 98-M-1343 *et al.*, *In the Matter of Retail Access Business Rules*.

15. “PSC” means the New York State Public Service Commission.

16. “GBL” means the General Business Law.

17. “Document” means documents or electronically stored information—including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation into a reasonably usable form.

18. “Communication” means the transmittal of information (in the form or facts, ideas, inquiries, or otherwise).

19. “Concerning” means relating to, referring to, describing, evidencing, or constituting.

20. The terms “all,” “any,” and “each” must be construed as encompassing any and all.

21. “Including” and “including, but not limited to” are used herein to illustrate documents that are responsive to a particular request. Phrases employing either term are not exhaustive of the materials sought and in no way limit the scope of any request.

22. The connectives “and” and “or” must be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

23. A verb tense includes all other tenses where the clear meaning is not distorted by the addition of another tense or tenses.

24. The use of the singular form or any word includes the plural and vice versa.

Case 98-M-1343 *et al.*

In the Matter of Eligibility Criteria for Energy Services Companies

INTERROGATORY/DOCUMENT REQUEST RESA-6

Date of Request: August 24, 2026

Date of Response: September 3, 2026

Request No.: RESA-6

Requested of: The Brooklyn Union Gas Company d/b/a National Grid NY

Subject: Implementation of GBL § 349-d(9) and (10)

REQUEST:

1. Please provide KEDNY's company-specific estimated costs for implementation of GBL § 349-d(9) and (10).

2. Please provide all documents and workpapers supporting KEDNY's company-specific estimated costs for implementation of GBL § 349-d(9) and (10).

3. Please provide KEDNY's company-specific approximate per customer charge for implementation of GBL § 349-d(9) and (10).

4. Please provide all documents and workpapers supporting KEDNY's company-specific approximate per customer charge for implementation of GBL § 349-d(9) and (10).

5. Please provide all documents and workpapers supporting KEDNY's estimated costs for implementation of GBL § 349-d(9) and (10).

6. Please provide the number of residential gas customers served by ESCOs in KEDNY's service territory.

7. Please provide the number of small non-residential gas customers served by ESCOs in KEDNY's service territory.

8. Please provide the number of gas customers, regardless of service class, served by ESCOs in KEDNY's service territory.

9. Please provide the mechanism or process that KEDNY will use to determine if an ESCO customer is a residential customer.

10. Please provide the mechanism or process that KEDNY will use to determine if an ESCO customer is a small non-residential gas customer.

11. Please provide the mechanism or process used by KEDNY to determine a customer's service classification.

12. Please provide all documents and communications exchanged by KEDNY with DPS regarding the implementation of GBL § 349-d(9) and (10) prior to the filing of the Petition.

13. Please provide all documents and communications exchanged by KEDNY with the other Joint Utilities regarding the implementation of GBL § 349-d(9) and (10) prior to the filing of the Petition.

14. Please describe which system changes will be implemented by KEDNY prior to Commission approval of the Petition, as indicated in footnote 6 on page 2 of the Petition.

15. Please provide all responses to discovery previously provided by KEDNY to other parties in this proceeding.

RESPONSE:

Name:__________________________________ **Date:_________________**

Case 98-M-1343 *et al.*

In the Matter of Eligibility Criteria for Energy Services Companies

Date of Request: August 24, 2026

Date of Response: September 3, 2026

Requested by: Retail Energy Supply Association (RESA)

Requested of: The Joint Utilities

DEFINITIONS & INSTRUCTIONS

1. All requests for documents, records, and information, shall be construed to include any Word, Excel, or other computer spreadsheet models in original electronic format with all formulae intact and unlocked.

2. "DPS" or "Department" means the New York State Department of Public Service.

3. "ESCO" means Energy Service Company.

4. "Joint Utilities" means Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; KeySpan Gas East Corp. d/b/a National Grid; National Fuel Gas Distribution Corporation; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation d/b/a National Grid; Orange and Rockland Utilities, Inc.; Rochester Gas and Electric Corporation; and The Brooklyn Union Gas Company d/b/a National Grid NY.

5. "Central Hudson" means Central Hudson Gas & Electric Corporation.

6. "Con Edison" means Consolidated Edison Company of New York, Inc.

7. "KEDLI" means KeySpan Gas East Corp. d/b/a National Grid.

8. "National Fuel" means National Fuel Gas Distribution Corporation.

9. "NYSEG" means New York State Electric & Gas Corporation.

10. "National Grid" means Niagara Mohawk Power Corporation d/b/a National Grid.

11. "O&R" means Orange and Rockland Utilities, Inc.

12. "RG&E" means Rochester Gas and Electric Corporation.

13. “KEDNY” means The Brooklyn Union Gas Company d/b/a National Grid NY.

14. “Petition” means the Petition of the Joint Utilities for Cost Recovery and Other Relief Related to GBL § 349-d(9) and (10), filed on June 15, 2026 in Case 98-M-1343 *et al.*, *In the Matter of Retail Access Business Rules*.

15. “PSC” means the New York State Public Service Commission.

16. “GBL” means the General Business Law.

17. “Document” means documents or electronically stored information—including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation into a reasonably usable form.

18. “Communication” means the transmittal of information (in the form or facts, ideas, inquiries, or otherwise).

19. “Concerning” means relating to, referring to, describing, evidencing, or constituting.

20. The terms “all,” “any,” and “each” must be construed as encompassing any and all.

21. “Including” and “including, but not limited to” are used herein to illustrate documents that are responsive to a particular request. Phrases employing either term are not exhaustive of the materials sought and in no way limit the scope of any request.

22. The connectives “and” and “or” must be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

23. A verb tense includes all other tenses where the clear meaning is not distorted by the addition of another tense or tenses.

24. The use of the singular form or any word includes the plural and vice versa.

Case 98-M-1343 *et al.*

In the Matter of Eligibility Criteria for Energy Services Companies

INTERROGATORY/DOCUMENT REQUEST RESA-7

Date of Request: August 24, 2026

Date of Response: September 3, 2026

Request No.: RESA-7

Requested of: New York State Electric & Gas Corporation

Subject: Implementation of GBL § 349-d(9) and (10)

REQUEST:

1. Please provide NYSEG's company-specific per-customer cost for implementation of GBL § 349-d(9) and (10).

2. Please provide all documents and workpapers supporting NYSEG's company-specific estimated costs for implementation of GBL § 349-d(9) and (10).

3. Please provide NYSEG's company-specific approximate per customer charge for implementation of GBL § 349-d(9) and (10).

4. Please provide all documents and workpapers supporting NYSEG's company-specific approximate per customer charge for implementation of GBL § 349-d(9) and (10).

5. Please provide the number of residential electric customers served by ESCOs in NYSEG's service territory.

6. Please provide the number of small non-residential electric customers served by ESCOs in NYSEG's service territory.

7. Please provide the total number of electric customers, regardless of service class, served by ESCOs in NYSEG's service territory.

8. Please provide the number of residential gas customers served by ESCOs in NYSEG's service territory.

9. Please provide the number of small non-residential gas customers served by ESCOs in NYSEG's service territory.

10. Please provide the total number of gas customers, regardless of service class, served by ESCOs in NYSEG's service territory.

11. Please provide the mechanism or process that NYSEG will use to determine if an ESCO customer is a residential electric customer.

12. Please provide the mechanism or process that NYSEG will use to determine if an ESCO customer is a residential gas customer.

13. Please provide the mechanism or process that NYSEG will use to determine if an ESCO customer is a small non-residential electric customer.

14. Please provide the mechanism or process that NYSEG will use to determine if an ESCO customer is a small non-residential gas customer.

15. Please provide the mechanism or process used by NYSEG to determine a customer's service classification.

16. Please provide all documents and communications exchanged by NYSEG with DPS regarding the implementation of GBL § 349-d(9) and (10) prior to the filing of the Petition.

17. Please provide all documents and communications exchanged by NYSEG with the other Joint Utilities regarding the implementation of GBL § 349-d(9) and (10) prior to the filing of the Petition.

18. Please describe which system changes will be implemented by NYSEG prior to Commission approval of the Petition, as indicated in footnote 6 on page 2 of the Petition.

19. Please provide all responses to discovery previously provided by NYSEG to other parties in this proceeding.

RESPONSE:

Name:___________________________________ **Date:_________________**

Case 98-M-1343 *et al.*

In the Matter of Eligibility Criteria for Energy Services Companies

Date of Request: August 24, 2026

Date of Response: September 3, 2026

Requested by: Retail Energy Supply Association (RESA)

Requested of: The Joint Utilities

DEFINITIONS & INSTRUCTIONS

1. All requests for documents, records, and information, shall be construed to include any Word, Excel, or other computer spreadsheet models in original electronic format with all formulae intact and unlocked.

2. “DPS” or “Department” means the New York State Department of Public Service.

3. “ESCO” means Energy Service Company.

4. “Joint Utilities” means Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; KeySpan Gas East Corp. d/b/a National Grid; National Fuel Gas Distribution Corporation; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation d/b/a National Grid; Orange and Rockland Utilities, Inc.; Rochester Gas and Electric Corporation; and The Brooklyn Union Gas Company d/b/a National Grid NY.

5. “Central Hudson” means Central Hudson Gas & Electric Corporation.

6. “Con Edison” means Consolidated Edison Company of New York, Inc.

7. “KEDLI” means KeySpan Gas East Corp. d/b/a National Grid.

8. “National Fuel” means National Fuel Gas Distribution Corporation.

9. “NYSEG” means New York State Electric & Gas Corporation.

10. “National Grid” means Niagara Mohawk Power Corporation d/b/a National Grid.

11. “O&R” means Orange and Rockland Utilities, Inc.

12. “RG&E” means Rochester Gas and Electric Corporation.

13. “KEDNY” means The Brooklyn Union Gas Company d/b/a National Grid NY.

14. “Petition” means the Petition of the Joint Utilities for Cost Recovery and Other Relief Related to GBL § 349-d(9) and (10), filed on June 15, 2026 in Case 98-M-1343 *et al.*, *In the Matter of Retail Access Business Rules*.

15. “PSC” means the New York State Public Service Commission.

16. “GBL” means the General Business Law.

17. “Document” means documents or electronically stored information—including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation into a reasonably usable form.

18. “Communication” means the transmittal of information (in the form or facts, ideas, inquiries, or otherwise).

19. “Concerning” means relating to, referring to, describing, evidencing, or constituting.

20. The terms “all,” “any,” and “each” must be construed as encompassing any and all.

21. “Including” and “including, but not limited to” are used herein to illustrate documents that are responsive to a particular request. Phrases employing either term are not exhaustive of the materials sought and in no way limit the scope of any request.

22. The connectives “and” and “or” must be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

23. A verb tense includes all other tenses where the clear meaning is not distorted by the addition of another tense or tenses.

24. The use of the singular form or any word includes the plural and vice versa.

Case 98-M-1343 *et al.*

In the Matter of Eligibility Criteria for Energy Services Companies

INTERROGATORY/DOCUMENT REQUEST RESA-8

Date of Request: August 24, 2026

Date of Response: September 3, 2026

Request No.: RESA-8

Requested of: Rochester Gas & Electric Corporation

Subject: Implementation of GBL § 349-d(9) and (10)

REQUEST:

1. Please provide RG&E's company-specific per-customer cost for implementation of GBL § 349-d(9) and (10).

2. Please provide all documents and workpapers supporting RG&E's company-specific estimated costs for implementation of GBL § 349-d(9) and (10).

3. Please provide RG&E's company-specific approximate per customer charge for implementation of GBL § 349-d(9) and (10).

4. Please provide all documents and workpapers supporting RG&E's company-specific approximate per customer charge for implementation of GBL § 349-d(9) and (10).

5. Please provide the number of residential electric customers served by ESCOs in RG&E's service territory.

6. Please provide the number of small non-residential electric customers served by ESCOs in RG&E's service territory.

7. Please provide the total number of electric customers, regardless of service class, served by ESCOs in RG&E's service territory.

8. Please provide the number of residential gas customers served by ESCOs in RG&E's service territory.

9. Please provide the number of small non-residential gas customers served by ESCOs in RG&E's service territory.

10. Please provide the total number of gas customers, regardless of service class, served by ESCOs in RG&E's service territory.

11. Please provide the mechanism or process that RG&E will use to determine if an ESCO customer is a residential electric customer.

12. Please provide the mechanism or process that RG&E will use to determine if an ESCO customer is a residential gas customer.

13. Please provide the mechanism or process that RG&E will use to determine if an ESCO customer is a small non-residential electric customer.

14. Please provide the mechanism or process that RG&E will use to determine if an ESCO customer is a small non-residential gas customer.

15. Please provide the mechanism or process used by RG&E to determine a customer's service classification.

16. Please provide all documents and communications exchanged by RG&E with DPS regarding the implementation of GBL § 349-d(9) and (10) prior to the filing of the Petition.

17. Please provide all documents and communications exchanged by RG&E with the other Joint Utilities regarding the implementation of GBL § 349-d(9) and (10) prior to the filing of the Petition.

18. Please describe which system changes will be implemented by RG&E prior to Commission approval of the Petition, as indicated in footnote 6 on page 2 of the Petition.

19. Please provide all responses to discovery previously provided by RG&E to other parties in this proceeding.

RESPONSE:

Name:___________________________________ **Date:_________________**

Case 98-M-1343 *et al.*

In the Matter of Eligibility Criteria for Energy Services Companies

Date of Request: August 24, 2026

Date of Response: September 3, 2026

Requested by: Retail Energy Supply Association (RESA)

Requested of: The Joint Utilities

DEFINITIONS & INSTRUCTIONS

1. All requests for documents, records, and information, shall be construed to include any Word, Excel, or other computer spreadsheet models in original electronic format with all formulae intact and unlocked.

2. “DPS” or “Department” means the New York State Department of Public Service.

3. “ESCO” means Energy Service Company.

4. “Joint Utilities” means Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; KeySpan Gas East Corp. d/b/a National Grid; National Fuel Gas Distribution Corporation; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation d/b/a National Grid; Orange and Rockland Utilities, Inc.; Rochester Gas and Electric Corporation; and The Brooklyn Union Gas Company d/b/a National Grid NY.

5. “Central Hudson” means Central Hudson Gas & Electric Corporation.

6. “Con Edison” means Consolidated Edison Company of New York, Inc.

7. “KEDLI” means KeySpan Gas East Corp. d/b/a National Grid.

8. “National Fuel” means National Fuel Gas Distribution Corporation.

9. “NYSEG” means New York State Electric & Gas Corporation.

10. “National Grid” means Niagara Mohawk Power Corporation d/b/a National Grid.

11. “O&R” means Orange and Rockland Utilities, Inc.

12. “RG&E” means Rochester Gas and Electric Corporation.

13. "KEDNY" means The Brooklyn Union Gas Company d/b/a National Grid NY.

14. "Petition" means the Petition of the Joint Utilities for Cost Recovery and Other Relief Related to GBL § 349-d(9) and (10), filed on June 15, 2026 in Case 98-M-1343 *et al.*, *In the Matter of Retail Access Business Rules*.

15. "PSC" means the New York State Public Service Commission.

16. "GBL" means the General Business Law.

17. "Document" means documents or electronically stored information—including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation into a reasonably usable form.

18. "Communication" means the transmittal of information (in the form or facts, ideas, inquiries, or otherwise).

19. "Concerning" means relating to, referring to, describing, evidencing, or constituting.

20. The terms "all," "any," and "each" must be construed as encompassing any and all.

21. "Including" and "including, but not limited to" are used herein to illustrate documents that are responsive to a particular request. Phrases employing either term are not exhaustive of the materials sought and in no way limit the scope of any request.

22. The connectives "and" and "or" must be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

23. A verb tense includes all other tenses where the clear meaning is not distorted by the addition of another tense or tenses.

24. The use of the singular form or any word includes the plural and vice versa.

Case 98-M-1343 *et al.*

In the Matter of Eligibility Criteria for Energy Services Companies

INTERROGATORY/DOCUMENT REQUEST RESA-9

Date of Request: August 24, 2026

Date of Response: September 3, 2026

Request No.: RESA-9

Requested of: Orange and Rockland Utilities, Inc.

Subject: Implementation of GBL § 349-d(9) and (10)

REQUEST:

1. Please provide O&R's company-specific estimated costs for implementation of GBL § 349-d(9) and (10).

2. Please provide all documents and workpapers supporting O&R's company-specific estimated costs for implementation of GBL § 349-d(9) and (10).

3. Please provide O&R's company-specific approximate per customer charge for implementation of GBL § 349-d(9) and (10).

4. Please provide all documents and workpapers supporting O&R's company-specific approximate per customer charge for implementation of GBL § 349-d(9) and (10).

5. Please provide the number of residential electric customers served by ESCOs in O&R's service territory.

6. Please provide the number of small non-residential electric customers served by ESCOs in O&R's service territory.

7. Please provide the total number of electric customers, regardless of service class, served by ESCOs in O&R's service territory.

8. Please provide the number of residential gas customers served by ESCOs in O&R's service territory.

9. Please provide the number of small non-residential gas customers served by ESCOs in O&R's service territory.

10. Please provide the total number of gas customers, regardless of service class, served by ESCOs in O&R's service territory.

11. Please provide the mechanism or process that O&R will use to determine if an ESCO customer is a residential electric customer.

12. Please provide the mechanism or process that O&R will use to determine if an ESCO customer is a residential gas customer.

13. Please provide the mechanism or process that O&R will use to determine if an ESCO customer is a small non-residential electric customer.

14. Please provide the mechanism or process that O&R will use to determine if an ESCO customer is a small non-residential gas customer.

15. Please provide the mechanism or process used by O&R to determine a customer's service classification.

16. Please provide all documents and communications exchanged by O&R with DPS regarding the implementation of GBL § 349-d(9) and (10) prior to the filing of the Petition.

17. Please provide all documents and communications exchanged by O&R with the other Joint Utilities regarding the implementation of GBL § 349-d(9) and (10) prior to the filing of the Petition.

18. Please describe which system changes will be implemented by O&R prior to Commission approval of the Petition, as indicated in footnote 6 on page 2 of the Petition.

19. Please provide all responses to discovery previously provided by O&R to other parties in this proceeding.

RESPONSE:

Name:__________________________________ **Date:__________________**

EXHIBIT B

From: Ahdoot, Rebecca <ahdootr@coned.com>
Sent: Wednesday, September 2, 2026 8:54 AM
To: Figueroa, Gabrielle A.
Cc: Senlet, Ekin; phillip.demanchick@avangrid.com; csharp@cenhud.com; samej@natfuel.com; Patrick Parkinson
Subject: Re: <External Sender> Case 15-M-0127 et al., In the Matter of Eligibility Criteria for Energy Services Companies [IMAN-ACTIVE.FID8055397]

Good morning,

Con Edison, O&R, NYSEG/RG&E, National Fuel, and National Grid hereby respond to RESA's interrogatories dated August 24, 2026.

Third parties do not have formal discovery rights in the context of a petition unless the Commission sets the petition for hearing, and they are parties to the proceeding. The Commission has not done so. Accordingly, RESA's interrogatories are improper, and the JU will not be formally responding to same. Moreover, some of the interrogatories are otherwise objectionable– including but not limited to because they request information outside of the scope of the proceeding, that is irrelevant, and/or are overbroad.

However, we are offering to answer questions outside the formal discovery process. This is in keeping with practice the past few months, as each utility has been discussing questions from individual ESCOs. Accordingly, each utility will be reaching out directly to respond as appropriate.

Regards,

Rebecca Ahdoot
Senior Attorney
Consolidated Edison Company of New York, Inc.
4 Irving Place, 18th Fl.
New York, NY 10003
917-734-5201 (Direct)
AhdootR@coned.com

From: Figueroa, Gabrielle A. <GFigueroa@barclaydamon.com>
Sent: Monday, August 24, 2026 7:16 PM
To: Ahdoot, Rebecca <ahdootr@coned.com>
Cc: esenlet@barclaydamon.com <esenlet@barclaydamon.com>; phillip.demanchick@avangrid.com <phillip.demanchick@avangrid.com>; csharp@cenhud.com <csharp@cenhud.com>; samej@natfuel.com <samej@natfuel.com>; Patrick Parkinson <patrick.parkinson@nationalgrid.com>
Subject: <External Sender> Case 15-M-0127 et al., In the Matter of Eligibility Criteria for Energy Services Companies [IMAN-ACTIVE.FID8055397]

CAUTION! EXTERNAL SENDER

STOP WHEN UNSURE. Never click on links or open attachments if sender is unknown, and never provide user ID or password. Suspicious? Use the Phish Reporter (for mobile phones, forward message to Email Check)

Ms. Ahdoot:

Attached please find discovery requests RESA-1 directed to Consolidated Edison Company of New York, Inc. ("Con Edison") and RESA-9 directed to Orange and Rockland Utilities, Inc. ("O&R"), with respect to the Petition of the Joint Utilities for Cost Recovery and Other Relief Related to GBL § 349-d(9) and (10) in the above-captioned matter.

Pursuant to the Commission's rules, responses to discovery requests must be returned to the requesting party within ten days following service. If a response cannot be prepared within that time, the requesting party must be notified and an alternate date must be provided.

Please let us know if you have any questions.

Thank you,

Gabby

Gabrielle A. Figueroa

Pronouns: she/her/hers
Special Counsel

BARCLAY DAMON LLP
1270 Avenue of the Americas • Suite 2310 • New York, NY 10020
D: (212) 784-5831 • F: (212) 784-5779 • C: (315) 882-2281
E: GFigueroa@barclaydamon.com

www.barclaydamon.com • vCard • Profile

EXHIBIT C

From:	DEMANCHICK, PHILLIP <phillip.demanchick@avangrid.com>
Sent:	Thursday, September 3, 2026 4:20 PM
To:	Figueroa, Gabrielle A.
Cc:	Senlet, Ekin
Subject:	RE: Case 15-M-0127 et al., In the Matter of Eligibility Criteria for Energy Services Companies [IMAN-ACTIVE.FID8055397]

Good Afternoon Attorney Figueroa,

The Joint Utilities recently responded to RESA's interrogatories dated August 24, 2026. As stated in that response, third parties do not have formal discovery rights in the context of a petition unless the Commission sets the petition for hearing and they are parties to the proceeding, which the Commission has not done. Accordingly, the JU are not formally responding to the interrogatories. However, NYSEG and RG&E are providing the following information on an informal basis as a courtesy.

Per-Customer Cost Estimates

With respect to the per-customer cost for implementation of GBL § 349-d(9) and (10), please refer to page 2 of the NYSEG/RG&E Implementation Plan in Appendix A of the Petition. The estimated per-customer cost for both NYSEG and RG&E is $10.83.

ESCO Customer Counts

The following customer counts reflect data as of June 17, 2026:

Category	NYSEG	RG&E
Residential electric customers served by ESCOs	39,000	15,924
Small non-residential electric customers served by ESCOs	18,206	8,562
Total electric customers served by ESCOs (all service classes)	74,100	29,395
Residential gas customers served by ESCOs	8,766	7,859
Total gas customers served by ESCOs (all service classes)	15,741	14,116

Regarding the number of small non-residential gas customers served by ESCOs, this information is currently unavailable for both NYSEG and RG&E. As set forth on page 2 of the NYSEG/RG&E Implementation Plan in Appendix A of the Petition, NYSEG and RG&E need to implement system changes to identify the number of gas customers with consumption less than or equal to 750 Dekatherms annually. For reference, however, as of June 17, 2026, there were 6,888 NYSEG gas non-residential customers with a service classification of 5 or 14 under NYSEG Tariff P.S.C. 88 and 6,068 RG&E gas non-residential customers with a service classification 5 under RG&E Tariff P.S.C. 16 that were served by an ESCO. As discussed below, all of NYSEG and RG&E's small gas non-residential customers fall within those respective service classifications.

Customer Classification Mechanisms

Residential Electric Customers: NYSEG will define an ESCO customer as receiving residential electric utility service as that term is used in GBL § 349-D(9)(b) if the customer is served under NYSEG Tariff P.S.C. 120 service classification 1, 8, or 12, or service classification 5 with a residential indicator. RG&E will apply the same standard under RG&E Tariff P.S.C. 19 service classification 1 or 4, or service classification 6 with a residential indicator.

Residential Gas Customers: NYSEG will define an ESCO customer as receiving residential gas utility service as that term is used in GBL § 349-D(9)(b) if the customer is served under NYSEG Tariff P.S.C. 88 service classification 13. RG&E will apply the same standard under RG&E Tariff P.S.C. 16 service classification 5 with a residential indicator in RG&E's billing system.

Small Non-Residential Electric Customers: NYSEG will define an ESCO customer as a small non-residential electric customer as that term is used in GBL § 349-D(9)(b) if the customer is served under NYSEG Tariff P.S.C. 120 service classification 6 or 9. RG&E will apply the same standard under RG&E Tariff P.S.C. 19 service classification 2.

Small Non-Residential Gas Customers: NYSEG will define an ESCO customer as a small non-residential gas customer as that term is used in GBL § 349-D(9)(b) if the customer is served under NYSEG Tariff P.S.C. 88 service classification 5 or 14 and has an annual consumption less than or equal to 750 Dekatherms annually. RG&E will apply the same standard under RG&E Tariff P.S.C. 16 service classification 5 with a non-residential indicator and an annual consumption threshold of 750 Dekatherms. For both companies, if a customer does not have at least 365 days of billed gas consumption within the most recent 14 months, prior gas consumption at the premise within the 14-month period will be used, and/or available gas consumption will be converted to a daily therm value compared to a daily therm threshold of 20.54795 (7,500 therms/365 days) to determine whether annual consumption will exceed 750 Dekatherms.

Service Classification: For both NYSEG and RG&E, a customer's service classification is the classification currently assigned in the company's billing system. The tariffs describe the eligibility for service classes. Customers eligible for more than one service class need to select which class they want to take service under.

System Changes

Both NYSEG and RG&E continue to work on the system changes summarized on page 2 of the NYSEG/RG&E Implementation Plan in Appendix A of the Petition. It is unclear when the Commission will act on the Petition. As a result, NYSEG and RG&E are unable to determine at this time which system changes will be implemented before the Commission acts on the Petition.

Respectfully,

Avangrid
A member of the
Iberdrola Group

Phillip D. Demanchick Jr.
Senior Counsel
Avangrid Networks, Inc. / NYSEG and RG&E

180 South Clinton Avenue, Rochester, NY 14604
Telephone 585.405.3927
Phillip.Demanchick@avangrid.com

Follow us

Internal Use

From: Figueroa, Gabrielle A. <GFigueroa@barclaydamon.com>
Sent: Monday, August 24, 2026 7:17 PM
To: DEMANCHICK, PHILLIP <phillip.demanchick@avangrid.com>
Cc: Senlet, Ekin <esenlet@barclaydamon.com>; Patrick Parkinson - NationalGrid (Patrick.Parkinson@nationalgrid.com) <Patrick.Parkinson@nationalgrid.com>; samej@natfuel.com; csharp@cenhud.com; AhdootR@coned.com
Subject: Case 15-M-0127 et al., In the Matter of Eligibility Criteria for Energy Services Companies [IMAN-ACTIVE.FID8055397]

EXTERNAL SENDER: Be cautious, especially with links and attachments. Report phishing if suspicious.

Mr. Demanchick:

Attached please find discovery requests RESA-7 directed to New York State Electric & Gas Corporation ("NYSEG") and RESA-8 directed to Rochester Gas and Electric Corporation ("RG&E"), with respect to the Petition of the Joint Utilities for Cost Recovery and Other Relief Related to GBL § 349-d(9) and (10) in the above-captioned matter.

Pursuant to the Commission's rules, responses to discovery requests must be returned to the requesting party within ten days following service. If a response cannot be prepared within that time, the requesting party must be notified and an alternate date must be provided.

Please let us know if you have any questions.

Thank you,

Gabby

Gabrielle A. Figueroa

Pronouns: she/her/hers
Special Counsel

BARCLAY DAMON LLP
1270 Avenue of the Americas • Suite 2310 • New York, NY 10020
D: (212) 784-5831 • F: (212) 784-5779 • C: (315) 882-2281
E: GFigueroa@barclaydamon.com

www.barclaydamon.com • vCard • Profile

EXHIBIT D

From: Jeffrey Same <SameJ@natfuel.com>
Sent: Thursday, September 3, 2026 4:50 PM
To: Figueroa, Gabrielle A.
Cc: Senlet, Ekin
Subject: RE: Case 15-M-0127 et al., In the Matter of Eligibility Criteria for Energy Services Companies [IMAN-ACTIVE.FID8055397]

Good afternoon,

As noted in Rebecca Ahdoot's email sent yesterday, third parties generally do not have formal discovery rights in connection with a petition unless the Commission sets the matter for hearing. Since that has not occurred here, National Fuel Gas Distribution Corporation ("National Fuel" or "Company") does not intend to provide formal responses to RESA's interrogatories. In addition, several of the interrogatories seek information that appears to be outside the scope of the proceeding or otherwise not relevant to the issues presented in the Petition of the Joint Utilities for Cost Recovery and Other Relief Related to GBL § 349-d(9) and (10) ("Petition"). Nevertheless, National Fuel is willing to answer questions outside the formal discovery process, consistent with recent practice in this proceeding. Accordingly, in response to RESA's August 24, 2026 request, National Fuel provides the following:

As of June 1, 2026, National Fuel had 28,972 total gas customers regardless of service class and 17,111 residential gas customers served by ESCOs in its New York service territory.

With respect to the number of small non-residential gas customers served by ESCOs, National Fuel is currently refining a system tool that enables it to generate a report distinguishing small non-residential customers from large non-residential customers. National Fuel is willing to follow up with additional information once this refinement is complete.

To determine a customer's service classification, including whether an ESCO customer is residential, National Fuel relies on the customer's rate category, which is assigned in accordance with the service classifications set forth in the Company's tariff. To determine whether an ESCO customer is a small non-residential customer, National Fuel reviews the customer's rate category and applies a mechanism that measures whether annual usage is less than or equal to 750 MCF. Where twelve months of consumption history are unavailable, the available consumption data is used to calculate a twelve-month average.

National Fuel is currently finalizing the necessary system changes related to GBL § 349-d(9) and (10), and it intends to implement them following completion of testing. However, cost-recovery-related changes will remain disabled until the Commission issues an order on the Petition. Because National Fuel does not know when such an order will be issued, it cannot state with certainty which system changes will be implemented before the Commission issues an order on the Petition.

For all other questions, including those concerning National Fuel's estimated implementation costs related to GBL § 349-d(9) and (10), please refer to the Petition.

Thank you,

Jeff Same

Jeffrey B. Same
Assistant General Counsel
National Fuel Gas Distribution Corporation

P: 716-857-7507 **F:** 716-857-7206
6363 Main Street, Williamsville, NY 14221
samej@natfuel.com

From: Figueroa, Gabrielle A. <GFigueroa@barclaydamon.com>
Sent: Monday, August 24, 2026 7:17 PM
To: Jeffrey Same <SameJ@natfuel.com>
Cc: Senlet, Ekin <esenlet@barclaydamon.com>; Patrick Parkinson - NationalGrid (Patrick.Parkinson@nationalgrid.com) <Patrick.Parkinson@nationalgrid.com>; AhdootR@coned.com; csharp@cenhud.com; phillip.demanchick@avangrid.com
Subject: Case 15-M-0127 et al., In the Matter of Eligibility Criteria for Energy Services Companies [IMAN-ACTIVE.FID8055397]

Mr. Same:

Attached please find discovery requests RESA-3 directed to National Fuel Gas Distribution Corporation with respect to the Petition of the Joint Utilities for Cost Recovery and Other Relief Related to GBL § 349-d(9) and (10) in the above-captioned matter.

Pursuant to the Commission's rules, responses to discovery requests must be returned to the requesting party within ten days following service. If a response cannot be prepared within that time, the requesting party must be notified and an alternate date must be provided.

Please let us know if you have any questions.

Thank you,

Gabby

Gabrielle A. Figueroa

Pronouns: she/her/hers
Special Counsel

BARCLAY DAMON LLP
1270 Avenue of the Americas • Suite 2310 • New York, NY 10020
D: (212) 784-5831 • F: (212) 784-5779 • C: (315) 882-2281
E: GFigueroa@barclaydamon.com

www.barclaydamon.com • vCard • Profile

EXHIBIT E

From: Ahdoot, Rebecca <ahdootr@coned.com>
Sent: Friday, September 4, 2026 4:50 PM
To: Figueroa, Gabrielle A.
Cc: Senlet, Ekin
Subject: Re: <External Sender> Case 15-M-0127 et al., In the Matter of Eligibility Criteria for Energy Services Companies [IMAN-ACTIVE.FID8055397]

Good evening,

In accordance with my email below, dated August 24, 2026, Con Edison and O&R respond to RESA's inquries, as follows:

Implementation Plan - Cost Estimate

The Companies' preliminary total estimated implementation costs are $625,000 (see Petition, Appendix A, Con Edison/O&R implementation plan, p. 2). The Companies expect this cost to increase due to additional changes needed to the RAIS/ TCIS web portals to provide information to ESCOs for the 12-month billing statement, as well as for changes associated with identifying streamlining identification of small non-residential gas customers. The Companies will provide an updated estimate when available.

Note that where costs are shared, they are split between the Companies with ninety-three (93) percent of the costs covered by Con Edison and seven (7) percent of the costs covered by O&R.

ESCO Customer Counts

The following customer counts reflect data as of June 17, 2026. Note that due to technical difficulties, Con Edison will be providing the data in the last box (small non-res gas) shortly, but it cannot do so today.

	June 17 customer count by Company	
Count of Customers Served by ESCOs	**Con Edison**	**O&R**
Residential Electric	196,712	15,862
Small Non-Residential Electric	79,459	1,129
Residential Gas	40,305	11,754
Small Non-Residential Gas	To be supplemented	2,132

The total number of electric customers and gas customers regardless of service class served by ESCOs is irrelevant under GBL § 349-d(9) and will not be provided.

Customer Classifications

Con Edison and O&R define an ESCO customer in accordance with GBL § 349-d(9), and the Companies use the below rate codes (aka service classifications) to determine applicability. Note that for both Con Edison and O&R, a customer's service classification is the classification currently assigned in the respective company's billing system. Service classification is determined based on a customer's usage and type (residential, non-residential). See the Companies' respective tariffs for more details.

Customer Type	Con Edison Service Class	O&R Rate Code
Residential Electric	SC1 Rates 1 -4, SC1 Rate 5, SC1 Rates 1 -7 under Rider Z,	X2E, X3E, X58, X6E, X7E, X8E, X3A, X5A, X7A
Residential Gas	SC1 Rate 1, SC3 Rates 1 - 2	306, 406, 706, 716, 906
Small Non-Residential Electric	SC2 Rates 1 – 2, SC2 Rider D, SC2 Rate 1 under Rider AA	X8D, X9D
Small Non-Residential Gas*	SC2 Rates 1 - 2	226, 436, 506, 536, 606, 416, 516, 746, 816

*These service classes are initially utilized but then further limited for annual usage less than 750 dekatherms based on previous calendar years consumption.

<u>System Changes</u>

The Companies are unsure when the Commission will issue an order in response to the Petition. However, in accordance with the legislation, the Companies are working to implement the system changes in the Companies' Implementation Plan (see Appendix A of the Petition). For both Companies, the side-by-side bill comparison is already complete for consolidated billing customers.

Regards,

Rebecca Ahdoot
Senior Attorney
Consolidated Edison Company of New York, Inc.
4 Irving Place, 18th Fl.
New York, NY 10003
917-734-5201 (Direct)
AhdootR@coned.com

From: Ahdoot, Rebecca <ahdootr@coned.com>
Sent: Wednesday, September 2, 2026 8:54 AM
To: gfigueroa@barclaydamon.com <GFigueroa@barclaydamon.com>
Cc: esenlet@barclaydamon.com <esenlet@barclaydamon.com>; phillip.demanchick@avangrid.com <phillip.demanchick@avangrid.com>; csharp@cenhud.com <csharp@cenhud.com>; samej@natfuel.com <samej@natfuel.com>; Patrick Parkinson <patrick.parkinson@nationalgrid.com>
Subject: Re: <External Sender> Case 15-M-0127 et al., In the Matter of Eligibility Criteria for Energy Services Companies [IMAN-ACTIVE.FID8055397]

Good morning,

Con Edison, O&R, NYSEG/RG&E, National Fuel, and National Grid hereby respond to RESA's interrogatories dated August 24, 2026.

Third parties do not have formal discovery rights in the context of a petition unless the Commission sets the petition for hearing, and they are parties to the proceeding. The Commission has not done so. Accordingly, RESA's interrogatories are improper, and the JU will not be formally responding to same. Moreover, some of the interrogatories are otherwise objectionable– including but not limited to because they request information outside of the scope of the proceeding, that is irrelevant, and/or are overbroad.

However, we are offering to answer questions outside the formal discovery process. This is in keeping with practice the past few months, as each utility has been discussing questions from individual ESCOs. Accordingly, each utility will be reaching out directly to respond as appropriate.

Regards,

Rebecca Ahdoot
Senior Attorney
Consolidated Edison Company of New York, Inc.
4 Irving Place, 18th Fl.
New York, NY 10003
917-734-5201 (Direct)
AhdootR@coned.com

From: Figueroa, Gabrielle A. <GFigueroa@barclaydamon.com>
Sent: Monday, August 24, 2026 7:16 PM
To: Ahdoot, Rebecca <ahdootr@coned.com>
Cc: esenlet@barclaydamon.com <esenlet@barclaydamon.com>; phillip.demanchick@avangrid.com <phillip.demanchick@avangrid.com>; csharp@cenhud.com <csharp@cenhud.com>; samej@natfuel.com <samej@natfuel.com>; Patrick Parkinson <patrick.parkinson@nationalgrid.com>
Subject: <External Sender> Case 15-M-0127 et al., In the Matter of Eligibility Criteria for Energy Services Companies [IMAN-ACTIVE.FID8055397]

Ms. Ahdoot:

Attached please find discovery requests RESA-1 directed to Consolidated Edison Company of New York, Inc. ("Con Edison") and RESA-9 directed to Orange and Rockland Utilities, Inc. ("O&R"), with respect to the Petition of the Joint Utilities for Cost Recovery and Other Relief Related to GBL § 349-d(9) and (10) in the above-captioned matter.

Pursuant to the Commission's rules, responses to discovery requests must be returned to the requesting party within ten days following service. If a response cannot be prepared within that time, the requesting party must be notified and an alternate date must be provided.

Please let us know if you have any questions.

Thank you,

Gabby

Gabrielle A. Figueroa

Pronouns: she/her/hers
Special Counsel

BARCLAY DAMON LLP
1270 Avenue of the Americas • Suite 2310 • New York, NY 10020
D: (212) 784-5831 • F: (212) 784-5779 • C: (315) 882-2281
E: GFigueroa@barclaydamon.com

www.barclaydamon.com • vCard • Profile
