

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
New York on November 14, 2024

COMMISSIONERS PRESENT:

Rory M. Christian, Chair  
James S. Alesi  
David J. Valesky  
John B. Maggiore  
Uchenna S. Bright  
Denise M. Sheehan  
Radina R. Valova

CASE 20-M-0082 - Proceeding on Motion of the Commission  
Regarding Strategic Use of Energy Related Data.

ORDER APPROVING TARIFF AMENDMENTS, WITH MODIFICATION,  
ON A PERMANENT BASIS

(Issued and Effective November 19, 2024)

BY THE COMMISSION:

INTRODUCTION

On October 13, 2023, the Public Service Commission  
(Commission) issued its IEDR Order directing, inter alia, that  
the Joint Utilities<sup>1</sup> file proposed tariff revisions related to  
liability for unauthorized or inadvertent disclosures of data

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<sup>1</sup> The Joint Utilities (or JU) include Central Hudson Gas &  
Electric Corporation (Central Hudson), Consolidated Edison  
Company of New York, Inc. (Con Edison), Orange and Rockland  
Utilities, Inc. (O&R), Niagara Mohawk Power Corporation d/b/a  
National Grid (Niagara Mohawk), New York State Electric & Gas  
Corporation (NYSEG), Rochester Gas and Electric Corporation  
(RG&E), Liberty Utilities (St. Lawrence Gas) Corporation  
(Liberty Utilities), National Fuel Gas Distribution  
Corporation (NFG), KeySpan Gas East Corporation d/b/a National  
Grid (KEDLI), and The Brooklyn Union Gas Company d/b/a  
National Grid NY (KEDNY).

from the statewide Integrated Energy Data Resource (IEDR) platform.<sup>2</sup> In accordance with the IEDR Order, tariff amendments were filed by Con Edison, O&R, and Liberty Utilities on November 9, 2023; Central Hudson on November 10, 2023; and Niagara Mohawk, KEDNY, KEDLI, NFG, NYSEG, and RG&E on November 13, 2023. The tariffs went into effect on December 1, 2023, on a temporary basis. Liberty Utilities filed further revisions on September 26, 2024, that went into effect on October 15, 2024, on a temporary basis. The IEDR Order waived the newspaper publication requirements of Public Service Law (PSL) §66(12)(b) and Title 16 of the New York Codes, Rules and Regulations (NYCRR) §720-8.1 for the filed tariff revisions. Liberty Utilities requested waiver of newspaper publication requirements for the further revisions filed on September 26, 2024, stating that the changes are clarifying in nature.

By this Order, the Commission authorizes the tariff amendments listed in the Appendix to become effective on a permanent basis on December 1, 2024, provided further revisions are filed on not less than four days' notice to become effective on December 1, 2024, as directed by this Order, except for amendments to certain utility tariff leaves related to the Order

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<sup>2</sup> Case 20-M-0082, Order Addressing Integrated Energy Data Resource Matters (issued October 13, 2023) (IEDR Order).

Implementing PSL §73,<sup>3</sup> which will remain in effect on a temporary basis until acted upon by the Commission.<sup>4</sup>

BACKGROUND

On December 1, 2022, the Joint Utilities filed a petition (Petition) seeking clarification and/or rehearing of the Commission's IEDR Implementation Order.<sup>5</sup> Specifically, the Joint Utilities requested that the Commission: (1) expressly direct the utilities to provide non-anonymized, non-aggregated customer specific data (what the Joint Utilities referred to as "Protected Customer Data") to the IEDR Solution Architect and Development Team (IEDR Administrator) without customer consent; (2) confirm that the IEDR Administrator would not share such Customer Protected Data with third parties without customer consent; and (3) authorize the filing of utility-specific tariff changes to eliminate any utility liability for any improper access or sharing of Customer Protected Data by the IEDR Administrator. With respect to limitations on liability, the

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<sup>3</sup> Case 22-M-0159, Proceeding to Implement Customer Credits and Reimbursements Pursuant to Public Service Law Section 73, Order Implementing Public Service Law Section 73 (issued July 14, 2022) (Order Implementing PSL §73).

<sup>4</sup> In compliance with the IEDR Order, certain utilities modified tariff leaves that had already been previously modified to implement the Order Implementing PSL §73, but which remain effective on a temporary basis only. Specifically, the amendments to Central Hudson's P.S.C No. 15, leaf No. 96 and P.S.C No. 12, leaf No. 65, Con Edison's P.S.C No. 9, leaf No. 79, NFG's P.S.C. No. 9, leaf No. 53, NYSEG's P.S.C. No. 119, leaf No. 102 and P.S.C. 90, leaf No. 87, O&R's P.S.C. No. 4, leaf No. 49, and RG&E's P.S.C. No. 16, leaf No. 111, related to the Order Implementing PSL §73, shall continue to remain in effect on a temporary basis until acted upon by the Commission.

<sup>5</sup> Case 20-M-0082, Order Implementing an Integrated Energy Data Resource (issued February 11, 2021) (IEDR Implementation Order).

Petition included the following draft language that the utilities proposed to include in their tariffs (Petition Tariff Language):

"The [Utility] has provided non-anonymized and non-aggregated customer specific data to the State's Integrated Energy Data Resource (IEDR) pursuant to the New York Public Service Commission's [XX Order] in Case 20-M-0082. If such data is improperly released from the IEDR as the result of a cyber-related incident, or inadvertently disclosed by the IEDR administrator or its agents or contractors due to an operational error, the [Utility] will not be liable for such release or disclosure."

In the IEDR Order, the Commission clarified that the Joint Utilities should transfer defined Customer Data Sets to the IEDR administrator without customer consent, as such transfer is an exchange of customer data between data custodians.<sup>6</sup> The Commission also clarified that the IEDR Administrator should not share Customer Data Sets without customer consent, subject to the Commission's data protection requirements.

Relevant to this instant Order, the Commission specifically acknowledged that the Joint Utilities would have no ability to protect the data stored in the IEDR platform once it has been transferred, and the protection of Customer Data Sets or other energy-related data on the IEDR platform from unauthorized disclosures would be the responsibility of the IEDR Administrator. Similarly, once the IEDR platform has been

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<sup>6</sup> The IEDR Order noted that the term "Protected Customer Data" is not defined in previous data-related Commission orders, and improperly suggested that the data to be transferred to the IEDR includes highly confidential personal information. As such, the Commission instead indicated that the defined term "Customer Data Set" more accurately reflects the types of data that will be transferred to the IEDR platform.

developed and is operational, Energy Service Entities would directly access data from the IEDR platform itself, instead of obtaining data from the utilities as is currently the case. Based on the foregoing, the Commission agreed that the Petition Tariff Language "is both necessary and narrowly circumscribed to ensure that the utilities cannot be held liable, as a matter of law, for the unauthorized release of data by the IEDR Administrator."<sup>7</sup> To that end, the Commission directed each of the Joint Utilities to, within 30 days of issuance of the IEDR Order, file tariff revisions consistent with the Petition Tariff Language, to become effective December 1, 2023 on a temporary basis subject to stakeholder comments and final Commission approval. Consistent with its policies regarding data ownership, the Commission also directed that the tariff revisions include explicit language acknowledging that the customer (and not the utility) is the owner of the customer's data.

The Commission further noted in the IEDR Order that, while it is reasonable for the utilities to include language in their tariffs regarding unauthorized disclosures of Customer Data Sets, cybersecurity risks (and the measures needed to be taken in light of those risks) continue to evolve, and the utilities still have a continuing responsibility to take adequate measures to safeguard their systems, as well as data that remains on their systems (e.g., highly confidential personal information and Critical Energy Infrastructure Information (CEII)). As such, to the extent any cybersecurity events occur related to the IEDR platform that impact Customer Data Sets and/or utility systems, any damages that might result from such events, as well as the appropriate measures that must

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<sup>7</sup> IEDR Order, p. 15.

be taken to mitigate those damages, should be addressed by the Commission on a case-by-case basis.

TARIFF FILINGS

Con Edison, O&R, Central Hudson, NFG, NYSEG, RG&E

Con Edison filed revisions to its electric, gas, and steam tariffs. O&R filed revision to its electric and gas tariffs. Central Hudson filed revisions to its electric and gas tariffs. NFG filed revisions to its gas tariff. NYSEG and RG&E each filed revisions to their respective electric and gas tariffs.

In each of these filings, the respective utility included language expressly acknowledging that the customer, and not the utility, owns the customer's data. However, each of these tariff filings also deviated from the Petition Tariff Language, as follows:

- The tariff revisions specifically identify that the utility has provided "Data Sets" to the IEDR, comprised of the "Customer Energy Usage Data Set," "Customer Contact Data Set," and "Customer Billing Data Set." The tariffs also specifically state that "although these Data Sets could include non-anonymized and non-aggregated customer-specific data, no highly confidential personal information, such as social security numbers or banking information, will be made available or included in these Data Sets."
- The tariff revisions broadly state that "once the Company transfers data to the IEDR platform, the Company is not liable for any improper access or sharing of Data Sets."

Niagara Mohawk, KEDNY, KEDLI (together, the National Grid Companies)

Niagara Mohawk filed revisions to its electric and gas tariffs, while KEDNY and KEDLI both filed revisions to their

respective gas tariffs. Similarly to the above utilities, the National Grid Companies all included language in their proposed tariff revisions identifying "Data Sets" (comprised of the "Customer Energy Usage Data Set," "Customer Contact Data Set," and "Customer Billing Data Set") as being transferred to the IEDR, and that such Data Sets could include non-anonymized and non-aggregated customer-specific data but would not include highly confidential personal information like social security numbers and banking information. Contrasting the broad language included in the above tariff filings, however, the National Grid Companies' tariff filings provide more specific language stating that "once the Company transfers data to the IEDR platform, the Company is not liable for any improper access or sharing of the Data Sets to any person or entity, originating from or caused by a third party through the IEDR Administrator, its agents, contractors, or users." The National Grid Companies also included language expressly acknowledging that the customer, and not the utility, owns the customer's data.

Liberty Utilities

Liberty Utilities filed revisions to its gas tariff. Initially, Liberty Utilities' proposed revisions generally matched the verbiage of the Petition Tariff Language, but failed to include specific language acknowledging that the customer, and not the utility, is the owner of the customer's data, as directed by the Commission in its IEDR Order. Liberty Utilities subsequently filed further revisions, on September 26, 2024, that included the verbiage acknowledging that the customer, and not the utility, is the owner of the customer's data. Liberty Utilities requested a waiver of the requirements of PSL §66(12)(b) and 16 NYCRR §720-8.1 for the filed further revisions because the changes included in this filing are clarifying in nature.

PUBLIC NOTICE

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rulemaking was published in the State Register on December 20, 2023 [SAPA No. 20-M-0082SP12]. The time for submission of comments pursuant to the notice expired on February 20, 2024. No comments were received.

LEGAL AUTHORITY

Pursuant to PSL §§5, 65(1), and 66(1) and (12), the Commission has the legal authority to review the proposed tariff leaves, as well as modify, reject, or approve such filed tariffs. As such, the Commission has the legal authority to review the Joint Utilities' filings and approve and make effective tariff amendments, as prescribed in this Order.

DISCUSSION AND CONCLUSION

The Commission authorizes the tariff amendments listed in the Appendix to become effective on a permanent basis on December 1, 2024, provided further revisions are filed as addressed below, and provided further that the portions of certain utilities' tariff leaves that were amended on July 22, 2022 in compliance with the Order Implementing PSL §73 shall remain in effect on a temporary basis until acted upon by the Commission.<sup>8</sup> The tariff modifications filed by each of the Joint Utilities differed from each other to varying degrees, and each filing deviated from the Petition Tariff Language that the Commission approved in the IEDR Order with the exception of Liberty Utilities' September 26, 2024 filing. For example, the Petition Tariff Language included general references to non-

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<sup>8</sup> See note 4, supra.

anonymized and non-aggregated customer specific data being provided to the IEDR platform. In each of their proposed tariff revisions, Con Edison, O&R, Central Hudson, NFG, NYSEG, RG&E, and the National Grid Companies included overly specific references to "Data Sets" being transferred to the IEDR platform, which the tariffs further define as comprising the "Customer Energy Usage Data Set," "Customer Contact Data Set," and "Customer Billing Data Set." Similarly, the language utilized by Con Edison, O&R, Central Hudson, NFG, NYSEG, and RG&E, stating that "once the Company transfers data to the IEDR platform, the Company is not liable for any improper access or sharing of Data Sets," is overly broad compared to the Petition Tariff Language. As noted above and in the IEDR Order, while it is reasonable for the utilities to include language in their tariffs regarding unauthorized disclosures of customer data from the IEDR platform, each utility continues to be responsible for safeguarding their systems, as well as data that remains on their systems, particularly with respect to highly confidential personal information and CEII (which should not be transferred to the IEDR platform). As currently written, this proposed tariff language expands the utilities' limitation of liability to any improper access or sharing of data and not just the data transferred to the IEDR platform, and is inconsistent with the Commission's intent in the IEDR Order.<sup>9</sup>

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<sup>9</sup> In contrast, the tariff revisions of the National Grid Companies specifically state that "once the Company transfers data to the IEDR platform, the Company is not liable for any improper access or sharing of the Data Sets to any person or entity, originating from or caused by a third party through the IEDR Administrator, its agents, contractors, or users" (emphasis added). This language appropriately identifies that the limitation of liability only applies to inadvertent disclosures of data originating from the IEDR platform itself.

In order to meet the Commission's intent in approving the Petition Tariff Language, and to ensure statewide consistency across the utilities' tariffs, the Commission directs each utility to submit further tariff revisions with respect to limitations of liability associated with inadvertent disclosures of data from the IEDR platform. Specifically, each utility is directed to utilize the following language in its respective tariff(s):

"[Utility] has provided non-anonymized and non-aggregated customer specific data to the State's Integrated Energy Data Resource (IEDR) pursuant to the New York Public Service Commission's Order Addressing Integrated Energy Data Resource Matters issued on October 13, 2023 in Case 20-M-0082. If such data is improperly released from the IEDR as the result of a cyber-related incident, or inadvertently disclosed by the IEDR administrator or its agents or contractors due to an operational error, [Utility] will not be liable for such release or disclosure. Consistent with the Commission's policies regarding data ownership, the customer (not the utility), is the owner of the customer's data."

Each of the Joint Utilities, with the exception of Liberty Utilities, is directed to file tariff modifications, on not less than four days' notice, to go into effect on a permanent basis on December 1, 2024. The tariff modifications shall utilize the language discussed above. The newspaper publication requirements for these modifications are waived because of the minimal impact on customers and because customers have had the opportunity for notice and comment.

In addition to the Joint Utilities, the Commission anticipated that the Long Island Power Authority (LIPA) would participate in the development and implementation of the IEDR

and “align their various energy-related data activities.”<sup>10</sup> Further, the Commission agreed that LIPA should share a portion of the cost to develop the IEDR.<sup>11</sup> To that end, LIPA signed a Memorandum of Understanding with the New York State Energy Research and Development Authority so that LIPA could, among other things, contribute to the development cost of the IEDR and collaborate on the alignment of LIPA’s various energy-related data activities with the development and implementation of the IEDR to enable the transfer of the same data elements as those being provided by the Commission-jurisdictional utilities.<sup>12</sup> On July 17, 2024, LIPA provided notice in the State Register that it intends to modify its tariff to implement similar changes to its IEDR provisions to implement the requirements set forth by the Commission for the State’s investor-owned utilities. The Commission anticipates that LIPA’s tariff modifications will implement consistent tariff language and standards, including the same limitation of liability, concerning the IEDR. Further, the Department of Public Service’s (Department) Long Island Office reviews and makes recommendations regarding the core utility operations of LIPA and PSEG Long Island LLC. Pursuant to PSL §3-b(1), the Department is anticipated to issue its recommendations regarding LIPA’s proposed tariff language concerning liability for improper accessing or sharing of customer data for the LIPA Board of Trustees’ consideration at the December 18, 2024 Board meeting.

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<sup>10</sup> IEDR Implementation Order, p. 21.

<sup>11</sup> Id., p. 19.

<sup>12</sup> See Matter No. 14-01299, PSEG-LI Utility 2.0 Long Range Plan, Utility 2.0 - Department of Public Service Staff Recommendations Memo 2022 (filed December 12, 2022), p. 8.

The Commission orders:

1. The tariff amendments of Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., Niagara Mohawk Power Corporation d/b/a National Grid, New York State Electric & Gas Corporation, Rochester Gas and Electric Corporation, National Fuel Gas Distribution Corporation, KeySpan Gas East Corporation d/b/a National Grid, and The Brooklyn Union Gas Company d/b/a National Grid NY, as listed in the Appendix, shall become effective on a permanent basis on December 1, 2024, provided that further revisions consistent with the discussion in the body of this Order are filed on not less than four days' notice, and provided further that certain utilities' tariff amendments related to Case 22-M-0159 shall remain in effect on a temporary basis until acted upon by the Commission, as discussed in the body of this Order.

2. The tariff amendments filed by Liberty Utilities (St. Lawrence Gas) Corporation on September 26, 2024, shall become effective on a permanent basis upon issuance of this Order, as described in the body of this Order.

3. The requirements of PSL §66(12)(b) and 16 NYCRR §720-8.1 related to newspaper publication for the proposed tariff amendments filed on November 9, 2023, November 10, 2023, November 13, 2023, and September 26, 2024, are waived.

4. The requirement of newspaper publication pursuant to PSL §66(12)(b) and 16 NYCRR §720-8.1 are waived with respect to the tariffs directed under Ordering Clause No. 1 above.

5. In the Secretary's sole discretion, the deadlines set forth in this Order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least three days prior to the effected deadline.

6. This proceeding is continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS  
Secretary

SUBJECT: Filings by CENTRAL HUDSON GAS & ELECTRIC CORPORATION

Amendment to Schedule P.S.C. No. 15 - Electricity

Third Revised Leaf No. 96

Amendment to Schedule P.S.C. No. 12 - Gas

Third Revised Leaf No. 65

Issued: November 10, 2023      Effective on a temporary  
basis December 1, 2023.

SUBJECT: Filings by CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

Amendment to Schedule P.S.C. No. 10 - Electricity

Second Revised Leaf No. 174

Amendments to Schedule P.S.C. No. 9 - Gas

First Revised Leaf No. 80

Third Revised Leaf No. 79

Amendment to Schedule P.S.C. No. 4 - Steam

Original Leaf No. 34.1

Issued: November 9, 2023      Effective on a temporary  
basis December 1, 2023.

SUBJECT: Filing by KEYSpan GAS EAST CORP. D/B/A NATIONAL GRID

Amendment to Schedule P.S.C. No. 1 - Gas

Second Revised Leaf No. 63.2

Issued: November 13, 2023      Effective on a temporary  
basis December 1, 2023.

SUBJECT: Filing by LIBERTY UTILITIES (ST. LAWRENCE GAS) CORP.

Amendment to Schedule P.S.C. No. 1 - Gas

First Revised Leaf No. 110

Issued: November 9, 2023      Effective on a temporary  
basis December 1, 2023.

Second Revised Leaf No. 110

Issued: September 26, 2024      Effective on a temporary  
basis October 15, 2024.

SUBJECT: Filing by NATIONAL FUEL GAS DISTRIBUTION CORPORATION

Amendment to Schedule P.S.C. No. 9 - Gas

Third Revised Leaf No. 53

Issued: November 13, 2023      Effective on a temporary  
basis December 1, 2023.

SUBJECT: Filings by NEW YORK STATE ELECTRIC & GAS CORPORATION

Amendment to Schedule P.S.C. No. 119 - Electricity

Sixth Revised Leaf No. 102

Amendments to Schedule P.S.C. No. 121 - Electricity

Original Leaf No. 9.1  
Seventh Revised Leaf No. 9

Amendment to Schedule P.S.C. No. 90 - Gas

Seventh Revised Leaf No. 87

Issued: November 13, 2023      Effective on a temporary  
basis December 1, 2023.

SUBJECT: Filings by NIAGARA MOHAWK POWER CORPORATION D/B/A  
NATIONAL GRID

Amendment to Schedule P.S.C. No. 220 - Electricity

Original Leaf No. 68.1

Amendment to Schedule P.S.C. No. 219 - Gas

Second Revised Leaf No. 48.1

Issued: November 13, 2023      Effective on a temporary  
basis December 1, 2023.

SUBJECT: Filings by ORANGE AND ROCKLAND UTILITIES, INC.

Amendment to Schedule P.S.C. No. 3 - Electricity

First Revised Leaf No. 122

Amendments to Schedule P.S.C. No. 4 - Gas

First Revised Leaf No. 50

Third Revised Leaf No. 49

Issued: November 9, 2023      Effective on a temporary  
basis December 1, 2023.

SUBJECT: Filings by ROCHESTER GAS AND ELECTRIC CORPORATION

Amendments to Schedule P.S.C. No. 18 - Electricity

Fourth Revised Leaf No. 16

Tenth Revised Leaf No. 3

Amendments to Schedule P.S.C. No. 19 - Electricity

Third Revised Leaf No. 105

Eleventh Revised Leaf No. 4

Amendments to Schedule P.S.C. No. 16 - Gas

Eighth Revised Leaf No. 111  
Eleventh Revised Leaf No. 4

Issued: November 13, 2023      Effective on a temporary  
basis December 1, 2023.

SUBJECT: Filing by THE BROOKLYN UNION GAS COMPANY D/B/A NATIONAL  
GRID

Amendments to Schedule P.S.C. No. 12 - Gas

First Revised Leaf No. 23.1  
Third Revised Leaf No. 23

Issued: November 13, 2023      Effective on a temporary  
basis December 1, 2023.

SAPA: 20-M-0082SP12 - STATE REGISTER - December 20, 2023

NEWSPAPER PUBLICATION: Waived.