# <u>Exhibit 1</u>

**APPEAL TO THE NEW YORK STATE**
**PUBLIC SERVICE COMMISSION**

Case Numbers: 941259 and 953952

NEW YORK STATE OF OPPORTUNITY. | Department of Public Service

90 Church Street, New York, NY 10007-2919
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October 18, 2019

Mr. John McManus
Harris Beach
677 Broadway, Suite 1101
Albany, New York 12207

Mr. Konstantin Podolny
Read & Laniado
25 Eagle Street
Albany, New York 12207

**Subject:** Informal Hearing Decision
Cases 941259 & 953952
North Country Data Center Corporation
32 Power Dam Way & 42 Skyway Plaza, Plattsburgh, New York

Dear Mr. McManus and Mr. Podolny:

An informal hearing in the above referenced cases was held on June 5, 2019 in Albany, New York. Mr. John McManus and Ms. Aubrey Ohanian of Harris Beach represented North Country Data Center Corporation (NCDCC or the complainant). Mr. Konstantin Podolny of Read & Laniado represented Plattsburgh Municipal Lighting Department (PMLD or the utility). Based on all the information presented and the applicable law, I find that: 1) the utility correctly calculated the security deposit and is not obligated to accept deposit alternatives other than those listed in the Rider A tariff; and 2) an informal hearing officer cannot direct the utility to charge a different rate than that on file with the Public Service Commission (Commission).

**Background**

NCDCC is an electric customer of PMLD at 32 Power Dam Way and 42 Skyway Plaza in Plattsburgh, New York since March and May 2017, respectively. NCDCC takes service under the utility's Service Classification No. 6 – Large General Service.

In March 2018, the Commission approved amendments to the New York Municipal Power Agency (NYMPA) tariff to address it and its members concerns related to High Density Load (HDL) customers.[1] Specifically, NYMPA members noted a dramatic rise in applications from HDL customers, who were attracted to municipal electric systems because of their low electricity costs. As a result of these new HDL customers, NYMPA members had to increase their supplemental energy purchases, which resulted in a concomitant increase in energy costs for all ratepayers owing to the NYMPA tariff purchased power adjustment clause (PPAC).[2] To address this concern, NYMPA proposed amending its tariff by adding Rider A, which would prescribe service requirements, conditions, rates, and charges, including a Purchase Power Adjustment charge for HDL customers (HDL PPA). The HDL PPA would recover the incremental purchased power cost incurred by the utility to serve HDL customers.[3] In its order approving this tariff filing, the Commission required that NYMPA members individually notify each HDL customer about the Rider A tariff.

In a letter dated April 9, 2018, PMLD notified NCDCC of the Commission's approval of the NYMPA Rider A tariff for HDL customers.[4] The letter identified NCDCC as a HDL customer and stated that NCDCC would be charged a HDL PPA. The letter also stated that PMLD was calculating NCDCC's security deposit, which NCDCC may post in cash or as an irrevocable letter of credit.

In a letter dated December 14, 2018, PMLD advised NCDCC that pursuant to the Rider A tariff, it would not accept a surety bond as a security deposit. The letter also explained that based on NCDCC's use of approximately $480,000 per month in electricity and the Rider A rules, NCDCC would need to post a security deposit of $1,195,041, which was an increase of $945,041 above the previous security deposit of $250,000. On December 21, 2018, PMLD sent a final notice of electric disconnection to NCDCC. The notice stated that if NCDCC did not post the additional security deposit by January 15, 2019, PMLD would disconnect its electric service.

On February 4, 2019, NCDCC wrote to the Office of Consumer Services (OCS), stating its objection to the security deposit demanded by PMLD. NCDCC alleged that the demanded security deposit and the accepted payment methods were not consistent with either the Rider A tariff or 16 NYCRR §13.7. NCDCC asserted that because it had more than 12 months of billing history, PMLD must calculate the security deposit based on its most recent 12 months of billing. According to NCDCC's calculations, its security deposit should be $508,374, not $1,195,041. NCDCC also asserted that PMLD must accept a surety bond as a deposit alternative.

In addition to its complaint about its security deposit, NCDCC alleged that PMLD's February 2019 bill charged more than 1.7 times the New York Independent System Operator (NYISO) market rate for electricity. According to NCDCC, PMLD's charges were unjust,

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[1] Case 18-E-0126, New York Municipal Power Agency Rider A – Rates and Charges for High Density Load Customers, Order Approving Tariff Amendments with Modifications (Issued March 19, 2018).
[2] PMLD bills the PPAC to its customers to recover its costs for purchasing supplemental power and transmission from the open market. Id., p. 2.
[3] Id., p. 4-5.
[4] PLMD concurs in and agrees to abide by the NYMPA generic tariff. PSC No. 1, PMLD, Leaf 3 (effective January 1, 2010).

unreasonable, and in violation of Public Service Law (PSL) §65(1). NCDCC further asserted that the NYMPA tariff does not adequately explain how NYMPA sets the supplementary cost of power, which PMLD recovers through the HDL PPA, nor does the PMLD tariff address its involvement in the NYMPA cost setting process. NCDCC noted that the HDL PPA charge in its February 2019 invoice was more than three times the PPAC charge in previous invoices.

PMLD responded to the complaint by explaining to OCS how it calculated the requested deposit of $1,019,503. PMLD asserted that the security deposit should be based on electric service used during the previous 12 months rather than the total bill amount. As to the payment method, PMLD asserted its requirement that NCDCC post the deposit in cash or as an irrevocable letter of credit protects its other ratepayers in the event that a Rider A customer does not pay its bill.

On April 5, 2019, OCS issued its initial decision, finding that PMLD's security deposit request was not unreasonable. Using the average billed kilowatt hours and kilowatt demand for the 12-month period from February 2018 to January 2019 for the complainant's two locations, PMLD's delivery rates for SC6 customers, and the current PPAC and HDL PPA, OCS calculated a security deposit of $915,135. OCS attributed the difference between its calculations and PMLD's calculations resulted from PMLD's use of forecast HDL PPA rates while OCS used current HDL PPA rates. Therefore, OCS found that NCDCC was responsible for the security deposit of $1,019,503, of which NCDCC had already posted $250,000. OCS also found that PMLD was bound by the Commission's order and PMLD's tariff, which required that it post the security deposit in cash or as irrevocable letter of credit. As to the complainant's high bill allegation, OCS found that the billing was accurate and that the complainant's concerns were unfounded. The complainant disagreed with the initial decision and requested an informal hearing.

**Complainant's Position**

*Security Deposit*

The complainant argues that the utility incorrectly calculated the security deposit and must accept deposit alternatives other than cash or an irrevocable letter of credit. The complainant argues that the Commission's rules require the utility to calculate its security deposit based on its previous 12 months of billing history. Therefore, it was improper for the utility and OCS in its initial decision to use the current HDL PPA charge to calculate the security deposit. Instead, the utility should have used the complainant's actual billing history to calculate its security deposit. Accordingly, the complainant asserts that its proper security deposit should be $508,000.

The complainant argues that the utility must accept its security deposit as any of the forms of payment enumerated in 16 NYCRR §13.7. Specifically, the complainant asserts that a plain reading of the Commission's rules requires the utility to accept a surety bond as a deposit alternative. The complainant also dismisses the utility's argument that the references to "interest" in 16 NYCRR §13.7 implies that cash is the only acceptable form of payment.

The complainant argues that because the Commission's Part 13 rules begin with the phrase "[n]otwithstanding any other commission rules or orders to the contrary," neither the utility's tariff nor the Rider A tariff may modify 16 NYCRR §13.7. According to the complainant, if there are inconsistencies between the language in Part 13 and Rider A, then Part 13 trumps Rider A.

*High Bill*

The complainant argues that PSL §65 mandates that the utility's charges are just and reasonable. According to the complainant, were the utility not a member of NYMPA, it would buy its power on the open market. Because NYMPA's rate for supplemental power is well in excess of the NYISO market costs, the complainant argues that NYMPA supplemental power rates are unjust and unreasonable. To illustrate its point, the complainant observes that Massena Electric Department recently withdrew from NYMPA and now buys power directly from the New York Power Authority to save money for its customers.

**Utility's Position**

*Security Deposit*

The utility argues that it calculated and requested the $1,019,503 security deposit pursuant to its tariff. According to the utility, the Rider A tariff requires that a security deposit be equal to two times the customer's monthly bill and that the customer post the security deposit with cash or an irrevocable letter of credit. The utility argues that for customers like the complainant with 12 months or more of billing history, the Commission's rules allow the utility to calculate the security deposit based on the "service used," which plainly means the volume of energy used, and not the charges for the energy used.

The utility argues that the Rider A tariff requires that Rider A customers post their security deposit in cash or as an irrevocable letter of credit. According to the utility, the Commission approved this requirement to protect other ratepayers in the event a Rider A customer fails to pay its bill. The utility further argues that the references in 16 NYCRR §13.7 to "interest" implies that a security deposit is a cash payment. Finally, the utility argues that while Part 13 applies to all non-residential customers, the Rider A tariff applies to a specific subset of HDL customers, of which the complainant is one.

*High Bill*

The utility stated that it calculates two separate purchased power adjustment charges, one for Rider A customers (HDL PPA) and one for all customers (PPAC). The utility first apportions the PPAC power to its non-Rider A customers and after doing so, then apportions any remaining PPAC power to Rider A customers. The utility asserts that a retail customer has no standing to challenge the rates that NYMPA charges to its member utility companies. Finally, the utility argues that it put the complainant on notice about the HDL PPA before the rate went into effect.

**Analysis**

There are two issues to be addressed: 1) whether the utility correctly calculated and in what form must the utility accept the complainant's security deposit; and, 2) whether the utility's HDL PPA charge is just and reasonable.

*Security Deposit*

The complainant argues that the utility incorrectly calculated the security deposit and must accept deposit alternatives other than cash or an irrevocable letter of credit. The utility argues that it correctly calculated the security deposit and that the Rider A tariff only permits the complainant to post the security deposit in cash or as an irrevocable letter of credit.

The Commission's rules concerning how utility companies may require security deposits from non-residential customers are laid out in Part 13. Among other things, these rules prescribe how a utility calculates the security deposit as well as what deposit alternatives a utility shall accept.[5] To calculate the security deposit, the Commission rules prescribe the deposit amount:

> [S]hall not exceed the cost of twice the customer's average monthly usage, except in the case of customers whose usage varies widely, such as space heating or cooling customers, or certain manufacturing and industrial processors, where the deposit shall not exceed the cost of twice the average monthly usage for the peak season.[6]

In instances where an existing customer has 12 or more months of billing history, the Commission rules prescribe that the deposit amount "shall be based on service used during the previous 12 month period as evidenced by the billing history."[7]

In March 2018, the Commission approved amendments to the NYMPA tariff to address its members concerns about HDL customers and their impact on all ratepayers. Among other requirements, Rider A obligates HDL customers to "provide financial security in an amount equal to two times the customer's estimated total monthly bill. This security shall be in the form of a deposit or an irrevocable Letter of Credit in a form acceptable to the utility, at the customer's option."[8] In its order approving the Rider A tariff, the Commission noted that Rider A customers were highly mobile and their energy bills can be a large portion of a municipal utility's total costs, which could result in a large uncollectable amount.[9] The financial security requirements were thus appropriate to provide safeguards to other ratepayers should a Rider A customer not pay its bill.[10]

The complainant argues that if there are inconsistencies between the Commission's Part 13 rules and the Commission's order approving the Rider A tariff, then the Part 13 rules trump the Rider A tariff. In support of this argument, the complainant relies on the language in the "Applicability" sub-section of Part 13, which states:

> *Notwithstanding any other commission rules or orders to the contrary*, this Part governs the rights, duties and obligations of every gas, electric and steam corporation or municipality subject to the jurisdiction of the commission by virtue of articles 4 and 4-A of the Public Service Law, their nonresidential customers and the applicants for such nonresidential service.[11] (emphasis added)

Implicit in the complainant's argument here is that the Commission's order approving the Rider A tariff is contrary to the Commission's Part 13 rules on the same subject. For example, the

[5] 16 NYCRR §13.7(b), (d).
[6] Id. §13.7(b)(1).
[7] Id. §13.7(b)(2).
[8] PSC No: 1, NYMPA, Leaf 96 (effective 3/23/2018).
[9] Case 18-E-0126, supra, Order Approving Tariff Amendments with Modifications, p. 8.
[10] Id.
[11] 16 NYCRR §13.1(a)(1).

complainant argues that because the Part 13 rules mention surety bonds as a deposit alternative, then the utility must accept a surety bond. However, the plain meaning of 16 NYCRR §13.7(d) is that a utility must accept deposit alternatives that provide a level of security equivalent to cash. The reference to surety bonds in the Part 13 rules, which appears after "such as," is most correctly interpreted as one example of a nonexclusive list of deposit alternatives. The Rider A tariff specifically prescribes that the "security shall be in the form of a deposit or an irrevocable Letter of Credit in a form acceptable to the utility, at the customer's option."[12] Comparing one to the other, there is nothing in the applicable language of the Rider A tariff that is contrary to that in the Part 13 rule. The Rider A tariff allows the complainant to post a deposit alternative to cash, as does the Part 13 rule. The omission of one form of deposit alternatives in the Rider A tariff does not make it contrary to the Commission's applicable Part 13 rules. Stated otherwise, the Commission's specific rule applicable to HDL customers of municipal utility companies supersedes its general rule applicable to all non-residential customers throughout New York. Therefore, the only acceptable deposit alternative to cash here is an irrevocable letter of credit.

Having considered what deposit alternatives the utility may accept, it is next necessary to determine how the utility must calculate the security deposit. The complainant argues that because it has more than 12 months of billing history, the Commission rules prescribe that the utility calculates the security deposit based on its actual billing history. The utility argues that Commission rules allow it to calculate the security deposit based on the service used and not simply the billed charges. Here, the plain meaning of "usage" in 16 NYCRR §13.7 is a customer's energy usage as measured in kilowatt hours for the volumetric charge and kilowatts for the demand charge.

Further, the Rider A tariff's reference to "estimated billing" in its rule for calculating the security appears to reflect the fact that the tariff was written to apply prospectively to HDL customers. Considering that the Rider A tariff imposed a new HDL PPA charge on HDL customers, it then follows that any security deposit would be based on the customer's estimated billing (the product of the customer's usage and the applicable rates) once those rates go into effect. There appears to be no disagreement among the parties that the complainant is an HDL customer. Therefore, reading the Part 13 rules together with the Rider A tariff, the utility must calculate the complainant's security deposit based on its energy usage during the previous twelve months and the applicable current or prospective rates, including the HDL PPA charge, when performing the calculation. The product of that calculation should equal two times the complainant's estimated monthly bill when the HDL PPA rates are in effect.

As part of its investigation of the complainant's cases, DPS staff prepared its own calculations of the complainant's security deposit. My review of DPS staff's calculation finds that the calculations and methods used were consistent with the findings above. While DPS staff's calculation returned a different figure ($915,135) than did the utility's calculation ($1,019,503), staff attributed the difference to, among other things, the utility's use of forecast HDL PPA rates, which staff could not verify. Nevertheless, the calculations are sufficiently close to support the utility's position. Therefore, the utility correctly calculated the security deposit according to the Part 13 rules and the Rider A tariff. At the informal hearing, the parties suggested they would be amenable to recalculating the security deposit based on a more recent 12-month period. Should

[12] PSC No: 1, NYMPA, Leaf 96 (effective 3/23/2018).

the parties choose to do so, I recommend the utility explain its calculations in sufficient detail to the complainant.

*High Bill*

The complainant argues that the HDL PPA exceeds the open market price for energy and is unjust and unreasonable. The utility argues that it correctly calculated the complainant's bills and that a retail customer has no standing to the challenge a NYMPA rate.

As it explained in the order, the Commission approved the Rider A tariff because HDL customers' energy usage resulted in increased power supply costs to existing NYMPA ratepayers.[13] To address this concern, the Rider A tariff allows NYMPA members to recover from HDL customers the costs attributed solely to the class of HDL customers by charging this customer class an HDL PPA.[14] NYMPA calculates the HDL PPA using monthly inputs for energy and demand costs incurred by its members for load served under Rider A, which are recovered on a per kWh basis.[15] The order requires NYMPA to file the HDL PPA statement with the Commission on a monthly basis no less than three business days before the statement's effective date.[16] Thus, HDL customer may avail themselves of the filed HDL PPA rate prior to its effective date and adjust their usage accordingly.

To resolve consumer complaints, an informal hearing officer may interpret a utility's tariff and relevant Commission orders.[17] However, an informal hearing officer has no authority to direct this or any utility to offer a lower rate than that on file with the Commission.[18] Therefore, I cannot direct the utility to offer a lower HDL PPA rate than that on file with the Commission.

## Decision

Based on a thorough review of the evidence and facts of this case and the applicable State law, commission rules, regulations, orders and opinions, and utility tariff, I find that: 1) the utility correctly calculated the security deposit and is not obligated to accept deposit alternatives other than those listed in the Rider A tariff; and 2) an informal hearing officer cannot direct the utility to charge a different rate than that on file with the Commission.

If either party disagrees with this decision, that party may file an appeal with the Commission. The appeal procedures are set forth below.

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[13] Once a NYMPA member exhausts its allotment of low-cost hydro power from New York Power Authority, it must purchase more expensive supplemental power. Prior to the passage of the Rider A tariff, the costs of supplemental power were allocated to all of the utility's customers through the PPAC.

[14] According to the Commission, "it is a general principle of ratemaking that costs caused solely by a service class should be borne by that class." Case 18-E-0126, supra, Order Approving Tariff Amendments with Modifications, p. 5-6.

[15] Id., p. 5.

[16] Id.

[17] 16 NYCRR §12.12(a).

[18] Purcell v. N.Y. Central R.R. Co., 268 N.Y. 164, 171 (1935) ("As long as the charges enforced are those on file with the Commission, they are the only lawful charges which may be collected. No departure from the filed rate is permitted.")

## APPEAL PROCEDURE

If you believe that this decision is incorrect, you may appeal to the Commission. The basis for an appeal to the Commission is limited to one or more of the following grounds:

(1) The hearing officer made a mistake in the facts in the case or in the laws or regulations which affected his or her decision; or

(2) The hearing officer did not consider evidence presented at the hearing or review, which resulted in an unfavorable decision; or

(3) New facts or evidence, not available at the time of the hearing, have become available, and could affect the decision on the complaint.

If you choose to appeal, your appeal must be in writing and must contain an explanation of the facts or conclusions in the decision with which you disagree, the reasons for your disagreement, the relief or remedy sought from the Commission, and documentation of your position or legal arguments supporting your position.

The appeal should be filed within fifteen days after the informal hearing or review decision is mailed, and may be filed electronically or by regular mail. To file electronically, e-mail your appeal to the Secretary of the Public Service Commission, Kathleen H. Burgess, at:

Secretary@dps.ny.gov

If you are using regular mail, your appeal letter should be addressed to:

Kathleen H. Burgess, Secretary
Public Service Commission
Three Empire State Plaza
Albany, New York 12223

A copy of the appeal letter should also be sent to the opposing party. Appeals of Informal Hearing Decisions become a matter of public record and are listed on the Commission's website. Both your appeal letter and the informal hearing decision will be available to members of the general public (subject to limited redaction in the case of residential customers).

The Commission may make a determination on your appeal, reject it, return the case to the informal hearing officer for additional consideration, order a formal evidentiary hearing on the complaint or take such other action as it deems appropriate.

Sincerely,

Alex Karman
Acting Chief, Analysis & Informal Hearing
Office of Consumer Services

# <u>Exhibit 2</u>

**APPEAL TO THE NEW YORK STATE PUBLIC SERVICE COMMISSION**

Case Numbers: 941259 and 953952

<u>**Narrative for Complaint of North Country Data Center Corp**</u>

1. **What is the problem you are experiencing**

North Country Data Center Corp ("NCDCC") has been an electric customer of the Plattsburg Municipal Lighting Department ("PMLD") at two separate service locations in Plattsburg, New York—32 Power Dam Way and 42 Skyway Plaza—since March 1, 2017 and May 17, 2017 respectively. Since taking service, NCDCC has never had any electric arrears at either location.

Following the effective date of Rider A to the New York Municipal Power Agency's Generic Tariff, PMLD informed NCDCC that it was "identified" as a high density load ("HDL") customer and, pursuant to Rider A, NCDCC may need to provide PMLD with a deposit of "two times [its] estimated total monthly bill." PMLD subsequently demanded a security deposit from NCDCC in the amount of $1,019,503.00 and that it be provided immediately "by check or an irrevocable letter of credit" to avoid service termination. Neither demand, however, is consistent with Rider A or, more importantly, the Department of Public Service's rules of procedure in 16 NYCRR Part 13. Consistent with 16 NYCRR § 13.7, NCDCC stands ready and willing to provide a security deposit valued at two-times its average monthly bill based on a 12-month billing history via a surety bond.

As a result of PMLD's improper demands and threat of service termination, NCDCC has been forced to file this complaint, which is based on two grounds: (1) PMLD's requested security deposit amount is *more than double* the maximum allowable security deposit under 16 NYCRR § 13.7 (b) (1) and Rider A, and (2) PMLD has impermissibly limited the security deposit alternatives under 16 NYCRR 13.7 (d). As is outlined in the "resolution sought" section of this complaint, NCDCC merely seeks to have PMLD comply with 16 NYCRR Part 13 as it relates to the calculation and payment of a security deposit.

2. **What resolution are you seeking**

Pursuant to 16 NYCRR § 12.1 (a), NCDCC seeks to have PMLD comply with the clear requirements for security deposits in 16 NYCRR § 13.7. Specifically, NCDCC seeks the following resolution: (1) PMLD to comply with 16 NYCRR § 13.7 (b) (2), which requires, "in the case of an *existing customer* who has *12 months or more of billing history* [like NDCC]," the amount of a deposit will be "based on service used during the previous 12-month period as evidenced by the billing history;" and (2) PMLD to comply with 16 NYCRR § 13.7 (d), which requires utilities to "accept deposit alternatives which provide a level of security equivalent to cash, such as irrevocable bank letters of credit *and surety bonds*."

Applying 16 NYCRR § 13.7 and Rider A, NCDCC's security deposit amount should be $508,374 because NCDCC's most recent 12-month billing history establishes that NCDCC's average monthly bill is $254,187, and this deposit must be accepted by PMLD in the form of a surety bond. PMLD's demand for a security deposit *more than quadruple* NCDCC's average monthly electric bill in the form of cash or a letter of credit is arbitrary and violates 16 NYCRR Part 13.

**3. What resolution did they offer you**

Unfortunately, despite several weeks of discussion between the parties to try to resolve these issues without resort to a complaint, PMLD continues to maintain its improper positions on both issues.

**4. Disputed Amount**

$511,129, which represents the difference between PMLD's requested security deposit ($1,019,503) and two-times NCDCC's known 12-month average monthly electric bill ($508,374). As explained above, the deposit alternative is also disputed.

**5. Disputed Amount Explanation (50 character limit)**

See answer to "Disputed Amount" above.

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***Via Electronic Mail***

February 5, 2019

John T. McManus, Esq.
on Behalf of North Country Data Center Corp.
HARRIS BEACH PLLC
677 Broadway, Suite 1101
Albany, NY 12207

Re: CASE 941259 - QRS

Dear Mr. McManus:

This letter responds to the complaint you submitted on behalf of North Country Data Center Corp. ("NCDCC") on February 4, 2019 ("Complaint"). The Complaint challenges the amount of deposit requested by the Plattsburgh Municipal Lighting Department ("PMLD") from NCDCC, as well as the method by which such deposit would be accepted.

After reviewing your complaint, PMLD has determined that the requested deposit in the additional amount of $769,503.00 is appropriate. The total required deposit is $1,019,503.00. Further, PMLD is prepared to accept that amount in cash or an irrevocable Letter of Credit as provided for in PMLD's Tariff, as adopted by the New York State Public Service Commission ("Commission").

The Commission and New York Courts have routinely recognized that "[a] filed, effective tariff has the force of law."[1] The terms of the required deposit in this case are governed by Rider A to the New York Municipal Power Agency Generic Tariff, PSC No: 1 ("Rider A") as

[1] Case 02-E-1244, *Mr. Jason Burnham*, Complaint Determination (July 30, 2004), at 8; *see also Lee v. Consol. Edison Co. of New York*, 98 Misc. 2d 304, 305–06 (1st Dep't 1978) ("Once accepted by the Commission, the tariff schedule . . . takes on the force and effect of law and governs every aspect of the utility's rates and practices . . . ." ).

approved by the Commission.[2]

Rider A provides that an eligible customer "shall provide financial security in an amount equal to two times the customer's estimated total monthly bill . . . in the form of a deposit or an irrevocable Letter of Credit in a form acceptable to the utility, at the customer's option."[3] PMLD has calculated the amount of NCDCC's total estimated monthly bill to be $509,751.50. The basis of that calculation has been provided to you.

16 NYCRR § 13.7(b)(2) does not require a different calculation. That provision provides that "in the case of an existing customer who has 12 months or more of billing history, the amount of the deposit shall be based on *service used during the previous 12-month period* as evidenced by the billing history."[4] That section provides that *the service used* during the past 12 months be used as the basis for the calculation, not the amount of the bills. That is what PMLD has done here. A simple average of past bills would be wholly inadequate in this case, because the previous billings did not include a separate PPAC as provided for under Rider A.

Finally, your reliance on 16 NYCRR § 13.7(d), which provides for deposit alternatives, is misplaced. Rider A itself specifies that security must be supplied in the form of a "deposit or an irrevocable Letter of Credit" only. Surety bonds are not acceptable. Pursuant to a "well-established principle of statutory construction . . . where a general statute and a specific statute deal with the same subject matter, the specific statute prevails over the general where they are in apparent conflict."[5] While surety bonds may be appropriate in general circumstance, the Commission found that Rider A customers "impose unique costs on [municipal utilities] and their ratepayers, potentially without providing a corresponding benefit."[6] In addition, the Commission found that:

> the deposit/Letter of Credit is intended to protect other customers in the event a Rider A customer does not pay its final bill. Since Rider A customers can relocate easily and their energy bills can be such a significant portion of the municipalities total supply cost, it is appropriate to provide safeguards to municipal customers by

[2] Case 18-E-0126, New York Municipal Power Agency, Order Adopting Action and Tariff Amendments on a Permanent Basis (June 15, 2018). Rider A is applicable to PMLD via its Concurrence Tariff, PSC No. 1 – Electricity.

[3] Rider A at Leaf 96. The applicability of Rider A is not in dispute.

[4] 16 NYCRR 13.7(b)(2) (2019) (emphasis added).

[5] Case 03-M-1241, *In the Matter of the Facilitation of Intergovernmental Cooperation Regarding the Exchange of Confidential Information*, Statement of Policy Regarding the Provision of Confidential Information to Government Agencies (Sept. 19, 2003), at 9 n.8 (citing *Dutchess Cnty. Dep't of Social Services v. Day*, 96 N.Y.2d 149 (2001); *Prospect v. Cohalan*, 109 A.D.2d 210 (2d Dep't 1985); *Forest Hills Gardens Corp. v. Camp*, 165 Misc. 2d 915 (Sup. Ct. Queens Cnty. 1995).

[6] Case 18-E-0126, *supra*, , *Order Approving Tariff Amendments with Modification* (Mar. 19, 2018), at 5 ("Rider A Order").

> requiring Rider A customers to provide a deposit/Letter of Credit. To provide security for unbilled and current billed revenues, the deposit/Letter of Credit required of Rider A customers shall be set equal to two times the estimated total monthly bill of the Rider A customer.[7]

For the reasons described above, the deposit billed to NCDCC was calculated correctly, and remains due in the form of cash or an irrevocable Letter of Credit.

Respectfully submitted,

READ AND LANIADO, LLP
Attorneys for Plattsburgh Municipal Lighting Dept.

By: /s/ *Konstantin Podolny*
Konstantin Podolny

cc: William Treacy, P.E., Manager, Plattsburgh Municipal Lighting Department
Sangeetha Kailas, Department of Public Service

[7] *Id.* at 8.

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February 15, 2019

**VIA ELECTRONIC MAIL**

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25 Eagle Street
Albany, NY 12207

**Re: Case No. 941259—Complaint Filed By North Country Data Center Corp Against Plattsburg Municipal Lighting Department**

Dear Mr. Podolny:

We received your February 5, 2019 letter on behalf of the Plattsburg Municipal Lighting Department ("PMLD") responding to North Country Data Center Corp's ("NCDCC") above-referenced complaint. This letter addresses certain points raised in PMLD's response and reiterates NCDCC's demand that PMLD comply with the clear requirements for security deposits set forth in Part 13 of the Department of Public Service's ("DPS") rules of procedure.

As relevant to this complaint, Part 13 of DPS's rules of procedure establish a process for calculating security deposits from existing nonresidential customers like NCDCC[1] and specify acceptable forms of security deposits, including surety bonds.[2] Importantly, Part 13 unambiguously begins by declaring: "*Notwithstanding any other commission rules or orders to the contrary*, this Part governs the rights, duties and obligations of every . . . municipality subject to the jurisdiction of the commission . . . [and] their nonresidential customers."[3] Therefore, to the extent that PMLD's response starts with the assertion that the Public Service Commission's (the "Commission") *Order Approving Tariff Amendments With Modifications*[4] or the resulting Rider A incorporated into the New York Municipal Power Agency's Generic Tariff[5] somehow modifies or supersedes 16 NYCRR Part 13, that argument is undercut by section 13.1 (a).[6] As a

[1] 16 NYCRR § 13.7 (b) (2) (requiring, "in the case of an *existing customer* who has *12 months or more of billing history* [like NDCC]," the amount of a deposit will be "based on service used during the previous 12-month period as evidenced by the billing history") (emphasis added).
[2] 16 NYCRR § 13.7 (d) (requiring utilities to "accept deposit alternatives which provide a level of security equivalent to cash, such as irrevocable bank letters of credit *and surety bonds*") (emphasis added).
[3] 16 NYCRR § 13.1 (a) (emphasis added).
[4] Case 18-E-0126, *Tariff Filing by the New York Municipal Power Agency to Implement a New Rider A - Rates and Charges for High Density Load Service*, Order Approving Tariff Amendments With Modifications (Issued March 18, 2018) (the "Rider A Order").
[5] New York Municipal Power Agency, Generic Tariff, PSC No: 1, Leaf 96 ("NYMPA Rider A").
[6] Notably, the Commission would need to engage in what is known as "hard rulemaking" under the Section 102 (2) (a) (i) of the State Administrative Procedures Act ("SAPA") if it wanted to codify a new or amend an existing DPS rule or regulation (*see* Case 15-E-0302, *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard*, Order of Petitions for Rehearing [Issued Dec. 15, 2016], at 18-19 [explaining the procedure related to hard rulemaking]). If, in contrast, the Commission does not want to issue a rule to be codified in the DPS's rules and regulations, it can issue what is known as a "soft rule" pursuant to SAPA §

result, Part 13's plain and unambiguous requirements concerning the calculation and form of the security deposit must be and can readily be applied here.

A. <u>Calculation of a Security Deposit</u>

Part 13 requires that PMLD calculate NCDCC's security deposit amount (*i.e.*, two times its average monthly usage) based on its most recent 12-month billing history: "in the case of an *existing customer* who has *12 months or more of billing history*," the amount of a deposit will be "based on service used during the previous 12-month period as evidenced by the billing history".[7] A review of NCDCC's most recent 12-month billing history reveals that NCDCC's average monthly bill is $254,187, resulting in a security deposit amount of $508,374,[8] which NCDCC has offered to and remains prepared to pay to PMLD using a "deposit alternative."

PMLD's assertion that using a "simple average of past bills" to calculate NCDCC's security deposit is amount is "wholly inadequate . . . because the previous billings did not include a separate PPAC as provided for under Rider A" is factually incorrect. Exhibit A details that NCDCC has been billed a separate PPAC at each property during each of the last 12 billing cycles.[9]

In sum, NCDCC's established billing history provides a realistic and accurate benchmark for estimated future PMLD electric charges, and there is absolutely no basis to deviate from Part 13's clear structure for calculating an existing customer's security deposit amount: two times the average of the customer's prior 12-month billing history.[10]

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102 (2) (a) (ii). As relevant to this complaint, the Commission's proposed rulemaking related to the Rider A Order was noticed by the Secretary of State in the *State Register* as "within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act" (*i.e.*, as a "soft" rule) (*see* New York State Register, ID No. PSC-14-18-00001-EP [Issued April 4, 2018], at 9-10). Similarly, the notice of adoption of the Rider A Order reiterated that the Rider A Order was adopted as a soft rule pursuant to SAPA § 102 (2) (a) (ii) (*see* New York State Register, ID No. PSC-14-18-00001-A [Issued July 3, 2018], at 18). As such, the Rider A Order was issued as a soft rule and, by law and consistent with section 13.1 (a), cannot modify an existing section of or codify a new section in 16 NYCRR Part 13.

[7] 16 NYCRR § 13.7 (b) (2).

[8] Enclosed as Exhibit A please find a copy of PMLD's 12 most recent NCDCC invoices for both of its properties. Note that the January invoice, which was used to calculate NCDCC's average billed amount, is an estimated invoice that PMLD provided.

[9] Moreover, 10 of the 12 bills included in Exhibit A were issued *after* Rider A took effect, meaning, at minimum, NCDCC has an established 10-month history of being invoiced pursuant to Rider A.

[10] PMLD's purported "basis" for its calculation of NCDCC's "estimated average monthly bill" is also arbitrary and unjust. More specifically, PMLD used a PPAC of $0.039/kWh when calculating NCDCC's average monthly bill. A review of the enclosed bills makes it clear that the PPAC charged to NCDCC over the last 12 billing cycles is, on average, $0.0102/kWh. In other words, PMLD's "estimated" PPAC is almost four-times higher than the actual average PPAC NCDCC has been charged over the last 12 months. PMLD's "estimated" PPAC is nothing more than a random number seemingly utilized to artificially inflate the amount of its demanded security deposit and will surely be rejected as such when this complaint is resolved.

B. Form of a Security Deposit

Part 13 plainly and explicitly requires PMLD to accept a surety bond as a "deposit alternative": "A utility *shall* accept deposit alternatives which provide a level of security equivalent to cash, *such as* irrevocable bank letters of credit and *surety bonds*."[11] As discussed above, this regulatory mandate cannot be modified by the Rider A Order or NYMPA Rider A.[12]

Even assuming that the Rider A Order or NYMPA Rider A could narrow DPS's rules and regulations governing acceptable forms of deposit, neither document limits the acceptable form of deposit to cash or a letter of credit as PMLD baselessly asserts. To the contrary, a review of the Rider A Order and NYMPA Rider A reveal that the Commission *never* stated that existing high-density load customers must remit all newly-required deposits in either only cash or a letter of credit.[13] In fact, the term "cash" is never used in the Rider A Order or Rider A.[14] Similarly, neither the Rider A Order nor NYMPA Rider A expressly preclude PMLD from accepting a surety bond as a security deposit.[15] To the contrary, the Commission merely allowed certain utilities to require a "*deposit*/letter of credit" from their existing and future high-density load customers. Indeed, the Commission's use of the specific term "deposit" is important because it is the defined term used in 16 NYCRR § 13.7 that, as a result, governs this dispute and requires that PMLD accept NCDCC's security deposit in the form of a surety bond.[16]

Please contact me if PMLD would like to amicably resolve this complaint in accordance with DPS's rules and regulations. If not, we look forward to the Office of Consumer Service's prompt review and determination of NCDCC's complaint.

Very truly yours,

John T. McManus

Enclosure

cc: Sangeetha Kailas, Department of Public Service,
Office of Consumer Service (*via electronic mail*)

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[11] 16 NYCRR § 13.7 (d) (emphasis added).
[12] *See* 16 NYCRR § 13.1 (a).
[13] *See generally* Case 18-E-0126, *supra*, Rider A Order; NYMPA Rider A.
[14] *Id*.
[15] *Id*. Nor has PMLD provided any justification to establish why a surety bond does not provide PMLD with adequate security to protect against nonpayment—especially nonpayment by NCDCC, which has not had an electric arrears amount since it became a PMLD customer in 2017.
[16] *See* 16 NYCRR § 13.7 (d).

# EXHIBIT A

Estimated  Months Bill (Based on December 2018 Usage)Note 2

42 Skyway Plaza

| | Rates | Usage | Total $ | |
|---|---|---|---|---|
| Demand (KW) | $3.35 | 10,137.60 | $33,960.96 | |
| Energy KWH | 0.016200 | 6,541,458.67 | $105,971.63 | |
| PPAC | 0.026900 | 6,541,458.67 | $175,965.24 | Note 1 |
| IEEP Efficiency Charge | 0.001000 | 6,541,458.67 | $6,541.46 | |
| Subtotal | | | $322,439.29 | |
| Sales Tax | 0.080000 | 322,439.29 | $25,795.14 | |
| Total | | | $348,234.43 | |

32 Power Dam Way

| | Rates | Usage | Total $ | |
|---|---|---|---|---|
| Demand (KW) | $3.99 | 360.00 | $1,436.40 | |
| Energy KWH | 0.023700 | 198,000.00 | $4,692.60 | |
| PPAC | 0.026900 | 198,000.00 | $5,326.20 | Note 1 |
| IEEP Efficentcy Charge | 0.001000 | 198,000.00 | $198.00 | |
| Demand 5%  Discount | -0.199500 | 360.00 | ($71.82) | |
| Energy 1.25% Discount | -0.000296 | 198,000.00 | ($58.61) | |
| Subtotal | | | $11,522.77 | |
| Sales Tax | 0.080000 | 11,522.77 | $921.82 | |
| Total | | | $12,444.59 | |

| | |
|---|---|
| Total of Both Sites<br>for 1 Month | $360,679.02 |

Note 1:  PPAC calculated from the December bill which required supplemental power to be purcha be purchased due to high usage demands

Note 2: Based on actual useage at both locations of the North Country Data Center from December 1 to December 31, 2018.

Note 3:  Winter Rates are in use.

**Bill To:** COINMINT LLC
42 Skyway Plaza
Plattsburgh, NY 12901

FROM DATE: **December 1, 2018**

TO DATE: **December 31, 2018**

**Account #:** 33 01 0467

**Meter Readings:**

| | | | | |
|---|---|---|---|---|
| All Class Peak KW | 10,137.60 | | | 0.00 |
| | | | Total KWH | 6,541,459 |

| | | | | |
|---|---|---|---|---|
| **ON PEAK DEMAND: Winter** | $ 3.35 | 10,137.60 | $ 33,960.96 | |
| ON PEAK DEMAND: Summer | $ 2.71 | 10,137.60 | | |
| **TOTAL KW CHARGE:** | | | | $ 33,960.96 |
| **REACTIVE DEMAND CHARGE:** | 0.320000 | 0.00 | | $0.00 |
| **ENERGY CHARGE KWH:** | 0.0162 | 6,541,458.67 | | $105,971.63 |
| **PPAC CHARGE KWH:** | 0.006165 | 6,541,458.67 | | $40,328.09 |
| **IEEP EFFICIENCY CHARGE:** | $ 0.0010 | 6,541,458.67 | | $6,541.46 |
| **SALES TAX** | $ 0.0800 | | | $14,944.17 |
| **IF BILL IS PAID ON OR BEFORE:** | **January 21, 2019** | | | $201,746.31 |
| **IF BILL IS PAID AFTER:** | **January 21, 2019** | Add Late Payment Charge | | $3,026.19 |
| **DELAYED PAYMENT BILLING:** | | | | $204,772.51 |
| **TOTAL BILLED AMOUNT:** | | | | **$201,746.31** |

**WINTER RATE: Billing Months Nov-Mar**
SUMMER RATE Apr - Oct

## *CITY OF PLATTSBURGH - DEPT. OF FINANCE*

*41 City Hall Place*
*Plattsburgh, NY 12901-2985*
*(518) 563-7704*

| Account No. - Customer ID |
|---|
| 35011423 - 23251 |

| Due Date | Amount Due | Late Amount |
|---|---|---|
| 01/20/2019 | $8,010.62 | $8,130.78 |
| Service Address | | Amount Enclosed |
| 32 POWER DAM WAY | | |

Please write your Account Number on your check and enclose this portion of bill with your payment. Make checks payable to: ***City of Plattsburgh***

NORTH COUNTRY DATA CENTER CORPORATION
20 GREEN WAY PLAZA STE 360
HOUSTON, TX 77046

00006382018000744489600008010621

" Detach and return the portion above with your payment "

**CITY OF PLATTSBURGH**
(518) 563-7704

**Account No. - Customer ID** 35011423 - 23251

**Name** NORTH COUNTRY DATA CENTER CORPORATION

**Service Address** 32 POWER DAM WAY

| Meter Number | Read Dates Present | Read Dates Previous | Billing Days | Code | Meter Readings Present | Meter Readings Previous | Usage | Units |
|---|---|---|---|---|---|---|---|---|
| ELECTRIC: 0000028680 | 12/31/2018 | 11/30/2018 | 31 | A | 2633 | 2578 | 198000 | KWH |
| ELECTRIC: 0000028680 | 12/31/2018 | 11/30/2018 | 31 | A | | | 360.00 | KW |

**BILLING SUMMARY**

| | | |
|---|---|---|
| Previous Balance as of: | 12/31/2018 | $8,463.39 |
| Payments | | -$8,463.39 |
| Adjustments | | $0.00 |
| Penalties | | $0.00 |
| Balance Forward as of: | 12/31/2018 | $0.00 |
| Current Charges as of: | 12/31/2018 | $8,010.62 |
| Total Deposits Applied (Since Last Bill) | | $0.00 |
| Total Deposit Interest Applied | | $0.00 |
| Account Balance | | **$8,010.62** |

| | Rate | Usage | Charges |
|---|---|---|---|
| PREVIOUS BALANCE | | | 8,463.39 |
| PAYMENT | | | -8,463.39 |
| **BALANCE FORWARD** | | | 0.00 |
| Energy Charge Rate Class - 4D | 0.023700 | 198000.00 | 4,692.60 |
| Demand Charge Per KW | 3.990000 | 360.00 | 1,436.40 |
| Demand 5% Transformer Discount | -0.199500 | | -71.82 |
| Energy 1.25% Discount | -0.000296 | 198000.00 | -58.61 |
| PPAC Charge | 0.006165 | 198000.00 | 1,220.67 |
| IEEP Charge | 0.001000 | 198000.00 | 198.00 |
| Sales Tax | | | 593.38 |
| **TOTAL ELECTRIC BILLING** | | | **8,010.62** |
| **CURRENT CHARGES** | | | **$8,010.62** |
| **TOTAL AMOUNT DUE** | | | **$8,010.62** |

**ELECTRIC & WATER USAGE HISTORY**

| Month | Days | Electric Usage (kWh) | Electric Usage per day | Water Usage gallons | Water Usage per day |
|---|---|---|---|---|---|
| CURR | 31 | 198000 | 6,387.10 | | |
| 11-30-18 | 30 | 194400 | 6,480.00 | | |
| 10-31-18 | 31 | 212400 | 6,851.61 | | |
| 09-30-18 | 30 | 241200 | 8,040.00 | | |
| 08-31-18 | 31 | 277200 | 8,941.94 | | |
| 07-31-18 | 31 | 201600 | 6,503.23 | | |
| 06-30-18 | 30 | 342000 | 11,400.00 | | |
| 05-31-18 | 31 | 324000 | 10,451.61 | | |
| 04-30-18 | 38 | 424800 | 11,178.95 | | |
| 03-23-18 | 29 | 374400 | 12,910.34 | | |
| 02-22-18 | 30 | 410400 | 13,680.00 | | |
| 01-23-18 | 33 | 504000 | 15,272.73 | | |
| 12-21-17 | 30 | 511200 | 17,040.00 | | |

| Bill No. | Account Type | Bill Date | Due Date | Amount Due | Late Amount |
|---|---|---|---|---|---|
| 744489 | LARGE COMMERCIAL | 12/31/2018 | 01/20/2019 | $8,010.62 | $8,130.78 |

**MESSAGES:**

**_CITY OF PLATTSBURGH - DEPT. OF FINANCE_**
*41 City Hall Place*
*Plattsburgh, NY 12901-2985*
*(518) 563-7704*

| Account No. - Customer ID |
|---|
| 33010467 - 23251 |

| Due Date | Amount Due | Late Amount |
|---|---|---|
| 12/20/2018 | $217,810.31 | $221,077.46 |
| Service Address | | Amount Enclosed |
| 42 SKYWAY PLAZA | | |

Please write your Account Number on your check
and enclose this portion of bill with your payment.
Make checks payable to: ***City of Plattsburgh***

NORTH COUNTRY DATA CENTER CORPORATION
20 GREEN WAY PLAZA STE 360
HOUSTON, TX 77046

00006382018000732495700217810316

✂ Detach and return the portion above with your payment ✂

| **CITY OF PLATTSBURGH** | **Account No. - Customer ID** | **Name** | **Service Address** |
|---|---|---|---|
| (518) 563-7704 | 33010467 - 23251 | NORTH COUNTRY DATA CENTER CORPORATION | 42 SKYWAY PLAZA |

| Meter Number | Read Dates | | Billing Days | | Meter Readings | | Usage | Units |
|---|---|---|---|---|---|---|---|---|
| | Present | Previous | | Code | Present | Previous | | |
| ELECTRIC: 0000028525 | 11/30/2018 | 10/31/2018 | 30 | A | 7109927 | 0 | 7109927 | KWH |
| ELECTRIC: 0000028525 | 11/30/2018 | 10/31/2018 | 30 | A | | | 10502.40 | KW |

| **BILLING SUMMARY** | | |
|---|---|---|
| Previous Balance as of: | 11/30/2018 | $240,998.87 |
| Payments | | -$240,998.87 |
| Adjustments | | $0.00 |
| Penalties | | $0.00 |
| Balance Forward as of: | 11/30/2018 | $0.00 |
| Current Charges as of: | 11/30/2018 | $217,810.31 |
| Total Deposits Applied (Since Last Bill) | | $0.00 |
| Total Deposit Interest Applied | | $0.00 |
| Account Balance | | **$217,810.31** |

| | Rate | Usage | Charges |
|---|---|---|---|
| PREVIOUS BALANCE | | | 240,998.87 |
| PAYMENT | | | -240,998.87 |
| **BALANCE FORWARD** | | | 0.00 |
| Energy Charge Rate Class - 6 | 0.016200 | 7109927.00 | 115,180.82 |
| Demand Charge Per KW | 3.350000 | 10502.40 | 35,183.04 |
| PPAC Charge | 0.006217 | 7109927.00 | 44,202.42 |
| IEEP Charge | 0.001000 | 7109927.00 | 7,109.93 |
| Sales Tax | | | 16,134.10 |
| **TOTAL ELECTRIC BILLING** | | | **217,810.31** |
| **CURRENT CHARGES** | | | **$217,810.31** |
| **TOTAL AMOUNT DUE** | | | **$217,810.31** |

PAID Dec

ENTERED Dec

| **ELECTRIC & WATER USAGE HISTORY** | | | | | |
|---|---|---|---|---|---|
| Month | Days | Electric Usage (kWh) | Electric Usage per day | Water Usage gallons | Water Usage per day |
| CURR | 30 | 7109927 | 236,997.57 | | |
| 10-31-18 | 31 | 7635475 | 246,305.65 | | |
| 09-30-18 | 30 | 7156201 | 238,540.03 | | |
| 08-31-18 | 31 | 6885066 | 222,098.90 | | |
| 07-31-18 | 31 | 6453455 | 208,175.97 | | |
| 06-30-18 | 30 | 6951131 | 231,704.37 | | |
| 05-31-18 | 31 | 7513481 | 242,370.35 | | |
| 04-30-18 | 30 | 7616699 | 253,889.97 | | |
| 03-31-18 | 31 | 7820702 | 252,280.71 | | |
| 02-28-18 | 28 | 6921955 | 247,212.68 | | |
| 01-31-18 | 31 | 7503755 | 242,056.61 | | |
| 12-31-17 | 31 | 5939710 | 191,603.55 | | |
| 11-30-17 | 30 | 3985299 | 132,843.30 | | |

| Bill No. | Account Type | Bill Date | Due Date | Amount Due | Late Amount |
|---|---|---|---|---|---|
| 732495 | INDUSTR CONTRACT | 11/30/2018 | 12/20/2018 | $217,810.31 | $221,077.46 |

**MESSAGES:**

## *CITY OF PLATTSBURGH - DEPT. OF FINANCE*

*41 City Hall Place*
*Plattsburgh, NY 12901-2985*
*(518) 563-7704*

| Account No. - Customer ID |
|---|
| 35011423 - 23251 |

| Due Date | Amount Due | Late Amount |
|---|---|---|
| 12/20/2018 | $8,463.39 | $8,590.34 |
| Service Address | | Amount Enclosed |
| 32 POWER DAM WAY | | |

Please write your Account Number on your check
and enclose this portion of bill with your payment.
Make checks payable to: ***City of Plattsburgh***

NORTH COUNTRY DATA CENTER CORPORATION
20 GREEN WAY PLAZA STE 360
HOUSTON, TX 77046

000063820180007324940000008463390

✂ Detach and return the portion above with your payment ✂

**CITY OF PLATTSBURGH**
(518) 563-7704

**Account No. - Customer ID** 35011423 - 23251

**Name** NORTH COUNTRY DATA CENTER CORPORATION

**Service Address** 32 POWER DAM WAY

| Meter Number | Read Dates: Present | Read Dates: Previous | Billing Days | Code | Meter Readings: Present | Meter Readings: Previous | Usage | Units |
|---|---|---|---|---|---|---|---|---|
| ELECTRIC: 0000028680 | 11/30/2018 | 10/31/2018 | 30 | A | 2578 | 2524 | 194400 | KWH |
| ELECTRIC: 0000028680 | 11/30/2018 | 10/31/2018 | 30 | A | | | 612.00 | KW |

**BILLING SUMMARY**

| | | |
|---|---|---|
| Previous Balance as of: | 11/30/2018 | $8,926.87 |
| Payments | | -$8,926.87 |
| Adjustments | | $0.00 |
| Penalties | | $0.00 |
| Balance Forward as of: | 11/30/2018 | $0.00 |
| Current Charges as of: | 11/30/2018 | $8,463.39 |
| Total Deposits Applied (Since Last Bill) | | $0.00 |
| Total Deposit Interest Applied | | $0.00 |
| Account Balance | | **$8,463.39** |

| | Rate | Usage | Charges |
|---|---|---|---|
| PREVIOUS BALANCE | | | 8,926.87 |
| PAYMENT | | | -8,926.87 |
| **BALANCE FORWARD** | | | 0.00 |
| Energy Charge Rate Class - 4D | 0.023700 | 194400.00 | 4,607.28 |
| Demand Charge Per KW | 3.240000 | 612.00 | 1,982.88 |
| Demand 5% Transformer Discount | -0.162000 | | -99.14 |
| Energy 1.25% Discount | -0.000296 | 194400.00 | -57.54 |
| PPAC Charge | 0.006217 | 194400.00 | 1,208.59 |
| IEEP Charge | 0.001000 | 194400.00 | 194.40 |
| Sales Tax | | | 626.92 |
| **TOTAL ELECTRIC BILLING** | | | **8,463.39** |
| **CURRENT CHARGES** | | | **$8,463.39** |
| **TOTAL AMOUNT DUE** | | | **$8,463.39** |

PAID Dec

ENTERED Dec

**ELECTRIC & WATER USAGE HISTORY**

| Month | Days | Electric Usage (kWh) | Electric Usage per day | Water Usage gallons | Water Usage per day |
|---|---|---|---|---|---|
| CURR | 30 | 194400 | 6,480.00 | | |
| 10-31-18 | 31 | 212400 | 6,851.61 | | |
| 09-30-18 | 30 | 241200 | 8,040.00 | | |
| 08-31-18 | 31 | 277200 | 8,941.94 | | |
| 07-31-18 | 31 | 201600 | 6,503.23 | | |
| 06-30-18 | 30 | 342000 | 11,400.00 | | |
| 05-31-18 | 31 | 324000 | 10,451.61 | | |
| 04-30-18 | 38 | 424800 | 11,178.95 | | |
| 03-23-18 | 29 | 374400 | 12,910.34 | | |
| 02-22-18 | 30 | 410400 | 13,680.00 | | |
| 01-23-18 | 33 | 504000 | 15,272.73 | | |
| 12-21-17 | 30 | 511200 | 17,040.00 | | |
| 11-21-17 | 27 | 475200 | 17,600.00 | | |

| Bill No. | Account Type | Bill Date | Due Date | Amount Due | Late Amount |
|---|---|---|---|---|---|
| 732494 | LARGE COMMERCIAL | 11/30/2018 | 12/20/2018 | $8,463.39 | $8,590.34 |

**MESSAGES:**

## *CITY OF PLATTSBURGH - DEPT. OF FINANCE*

*41 City Hall Place*
*Plattsburgh, NY 12901-2985*
*(518) 563-7704*

| Account No. - Customer ID |
|---|
| 35011423 - 23251 |

| Due Date | Amount Due | Late Amount |
|---|---|---|
| 11/20/2018 | $8,926.87 | $9,060.77 |
| Service Address | | Amount Enclosed |
| 32 POWER DAM WAY | | |

Please write your Account Number on your check and enclose this portion of bill with your payment. Make checks payable to: ***City of Plattsburgh***

NORTH COUNTRY DATA CENTER CORPORATION
20 GREEN WAY PLAZA STE 360
HOUSTON, TX 77046

000063820180007187263000089268 75

✂ Detach and return the portion above with your payment ✂

| **CITY OF PLATTSBURGH** | **Account No. - Customer ID** | **Name** | **Service Address** |
|---|---|---|---|
| (518) 563-7704 | 35011423 - 23251 | NORTH COUNTRY DATA CENTER CORPORATION | 32 POWER DAM WAY |

| Meter Number | Read Dates Present | Read Dates Previous | Billing Days | Code | Meter Readings Present | Meter Readings Previous | Usage | Units |
|---|---|---|---|---|---|---|---|---|
| ELECTRIC: 0000028680 | 10/31/2018 | 09/30/2018 | 31 | A | 2524 | 2465 | 212400 | KWH |
| ELECTRIC: 0000028680 | 10/31/2018 | 09/30/2018 | 31 | A | | | 432.00 | KW |

**BILLING SUMMARY**

| | | |
|---|---|---|
| Previous Balance as of: | 10/31/2018 | $9,290.61 |
| Payments | | -$9,290.61 |
| Adjustments | | $0.00 |
| Penalties | | $0.00 |
| Balance Forward as of: | 10/31/2018 | $0.00 |
| Current Charges as of: | 10/31/2018 | $8,926.87 |
| Total Deposits Applied (Since Last Bill) | | $0.00 |
| Total Deposit Interest Applied | | $0.00 |
| Account Balance | | **$8,926.87** |

| | Rate | Usage | Charges |
|---|---|---|---|
| PREVIOUS BALANCE | | | 9,290.61 |
| PAYMENT | | | -9,290.61 |
| **BALANCE FORWARD** | | | 0.00 |
| Energy Charge Rate Class - 4D | 0.023700 | 212400.00 | 5,033.88 |
| Demand Charge Per KW | 3.240000 | 432.00 | 1,399.68 |
| Demand 5% Transformer Discount | -0.162000 | | -69.98 |
| Energy 1.25% Discount | -0.000296 | 212400.00 | -62.87 |
| PPAC Charge | 0.008251 | 212400.00 | 1,752.51 |
| IEEP Charge | 0.001000 | 212400.00 | 212.40 |
| Sales Tax | | | 661.25 |
| **TOTAL ELECTRIC BILLING** | | | **8,926.87** |
| **CURRENT CHARGES** | | | **$8,926.87** |
| **TOTAL AMOUNT DUE** | | | **$8,926.87** |

ENTERED Nov

**ELECTRIC & WATER USAGE HISTORY**

| Month | Days | Electric Usage (kWh) | Electric per day | Water Usage gallons | Water per day |
|---|---|---|---|---|---|
| CURR | 31 | 212400 | 6,851.61 | | |
| 09-30-18 | 30 | 241200 | 8,040.00 | | |
| 08-31-18 | 31 | 277200 | 8,941.94 | | |
| 07-31-18 | 31 | 201600 | 6,503.23 | | |
| 06-30-18 | 30 | 342000 | 11,400.00 | | |
| 05-31-18 | 31 | 324000 | 10,451.61 | | |
| 04-30-18 | 38 | 424800 | 11,178.95 | | |
| 03-23-18 | 29 | 374400 | 12,910.34 | | |
| 02-22-18 | 30 | 410400 | 13,680.00 | | |
| 01-23-18 | 33 | 504000 | 15,272.73 | | |
| 12-21-17 | 30 | 511200 | 17,040.00 | | |
| 11-21-17 | 27 | 475200 | 17,600.00 | | |
| 10-25-17 | 29 | 421200 | 14,524.14 | | |

| Bill No. | Account Type | Bill Date | Due Date | Amount Due | Late Amount |
|---|---|---|---|---|---|
| 718726 | LARGE COMMERCIAL | 10/31/2018 | 11/20/2018 | $8,926.87 | $9,060.77 |

**MESSAGES:**

## *CITY OF PLATTSBURGH - DEPT. OF FINANCE*

*41 City Hall Place*
*Plattsburgh, NY 12901-2985*
*(518) 563-7704*

| Account No. - Customer ID |
|---|
| 33010467 - 23251 |

| Due Date | Amount Due | Late Amount |
|---|---|---|
| 11/20/2018 | $240,998.87 | $244,613.85 |
| Service Address | | Amount Enclosed |
| 42 SKYWAY PLAZA | | |

Please write your Account Number on your check
and enclose this portion of bill with your payment.
Make checks payable to: ***City of Plattsburgh***

NORTH COUNTRY DATA CENTER CORPORATION
20 GREEN WAY PLAZA STE 360
HOUSTON, TX 77046

00006382018000718727100240998872

✂ Detach and return the portion above with your payment ✂

**CITY OF PLATTSBURGH**
(518) 563-7704

**Account No. - Customer ID** 33010467 - 23251

**Name** NORTH COUNTRY DATA CENTER CORPORATION

**Service Address** 42 SKYWAY PLAZA

| Meter Number | Read Dates Present | Read Dates Previous | Billing Days | Code | Meter Readings Present | Meter Readings Previous | Usage | Units |
|---|---|---|---|---|---|---|---|---|
| ELECTRIC: 0000028525 | 10/31/2018 | 09/30/2018 | 31 | A | 7635475 | 0 | 7635475 | KWH |
| ELECTRIC: 0000028525 | 10/31/2018 | 09/30/2018 | 31 | A | | | 10633.44 | KW |

| BILLING SUMMARY | | |
|---|---|---|
| Previous Balance as of: | 10/31/2018 | $209,667.66 |
| Payments | | -$209,667.66 |
| Adjustments | | $0.00 |
| Penalties | | $0.00 |
| Balance Forward as of: | 10/31/2018 | $0.00 |
| Current Charges as of: | 10/31/2018 | $240,998.87 |
| Total Deposits Applied (Since Last Bill) | | $0.00 |
| Total Deposit Interest Applied | | $0.00 |
| Account Balance | | **$240,998.87** |

| | Rate | Usage | Charges |
|---|---|---|---|
| PREVIOUS BALANCE | | | 209,667.66 |
| PAYMENT | | | -209,667.66 |
| **BALANCE FORWARD** | | | 0.00 |
| Energy Charge Rate Class - 6 | 0.016200 | 7635475.00 | 123,694.70 |
| Demand Charge Per KW | 2.710000 | 10633.44 | 28,816.62 |
| PPAC Charge | 0.008251 | 7635475.00 | 63,000.30 |
| IEEP Charge | 0.001000 | 7635475.00 | 7,635.48 |
| Sales Tax | | | 17,851.77 |
| **TOTAL ELECTRIC BILLING** | | | **240,998.87** |
| **CURRENT CHARGES** | | | **$240,998.87** |
| **TOTAL AMOUNT DUE** | | | **$240,998.87** |

ENTERED NOV

| **ELECTRIC & WATER USAGE HISTORY** | | | | | |
|---|---|---|---|---|---|
| Month | Days | Electric Usage (kWh) | Electric Usage per day | Water Usage gallons | Water Usage per day |
| CURR | 31 | 7635475 | 246,305.65 | | |
| 09-30-18 | 30 | 7156201 | 238,540.03 | | |
| 08-31-18 | 31 | 6885066 | 222,098.90 | | |
| 07-31-18 | 31 | 6453455 | 208,175.97 | | |
| 06-30-18 | 30 | 6951131 | 231,704.37 | | |
| 05-31-18 | 31 | 7513481 | 242,370.35 | | |
| 04-30-18 | 30 | 7616699 | 253,889.97 | | |
| 03-31-18 | 31 | 7820702 | 252,280.71 | | |
| 02-28-18 | 28 | 6921955 | 247,212.68 | | |
| 01-31-18 | 31 | 7503755 | 242,056.61 | | |
| 12-31-17 | 31 | 5939710 | 191,603.55 | | |
| 11-30-17 | 30 | 3985299 | 132,843.30 | | |
| 10-31-17 | 31 | 4065789 | 131,154.48 | | |

| Bill No. | Account Type | Bill Date | Due Date | Amount Due | Late Amount |
|---|---|---|---|---|---|
| 718727 | INDUSTR CONTRACT | 10/31/2018 | 11/20/2018 | $240,998.87 | $244,613.85 |

**MESSAGES:**

**_CITY OF PLATTSBURGH - DEPT. OF FINANCE_**

*41 City Hall Place*
*Plattsburgh, NY 12901-2985*
*(518) 563-7704*

| Account No. - Customer ID |
|---|
| 33010467 - 23251 |

| Due Date | Amount Due | Late Amount |
|---|---|---|
| 10/20/2018 | $209,667.66 | $212,812.68 |
| Service Address | | Amount Enclosed |
| 42 SKYWAY PLAZA | | |

Please write your Account Number on your check and enclose this portion of bill with your payment.
Make checks payable to: ***City of Plattsburgh***

NORTH COUNTRY DATA CENTER CORPORATION
20 GREEN WAY PLAZA STE 360
HOUSTON, TX 77046

0000638201800070564760020966766

✂ Detach and return the portion above with your payment ✂

| **CITY OF PLATTSBURGH** | **Account No. - Customer ID** | **Name** | **Service Address** |
|---|---|---|---|
| (518) 563-7704 | 33010467 - 23251 | NORTH COUNTRY DATA CENTER CORPORATION | 42 SKYWAY PLAZA |

| Meter Number | Read Dates Present | Read Dates Previous | Billing Days | Code | Meter Readings Present | Meter Readings Previous | Usage | Units |
|---|---|---|---|---|---|---|---|---|
| ELECTRIC: 0000028525 | 09/30/2018 | 08/31/2018 | 30 | A | 7156201 | 0 | 7156201 | KWH |
| ELECTRIC: 0000028525 | 09/30/2018 | 08/31/2018 | 30 | A | | | 10431.84 | KW |

| **BILLING SUMMARY** | | |
|---|---|---|
| Previous Balance as of: | 09/30/2018 | $210,681.54 |
| Payments | | -$210,681.54 |
| Adjustments | | $0.00 |
| Penalties | | $0.00 |
| Balance Forward as of: | 09/30/2018 | $0.00 |
| Current Charges as of: | 09/30/2018 | $209,667.66 |
| Total Deposits Applied (Since Last Bill) | | $0.00 |
| Total Deposit Interest Applied | | $0.00 |
| Account Balance | | **$209,667.66** |

| | Rate | Usage | Charges |
|---|---|---|---|
| PREVIOUS BALANCE | | | 210,681.54 |
| PAYMENT | | | -210,681.54 |
| **BALANCE FORWARD** | | | 0.00 |
| Energy Charge Rate Class - 6 | 0.016200 | 7156201.00 | 115,930.46 |
| Demand Charge Per KW | 2.710000 | 10431.84 | 28,270.29 |
| PPAC Charge | 0.005978 | 7156201.00 | 42,779.77 |
| IEEP Charge | 0.001000 | 7156201.00 | 7,156.20 |
| Sales Tax | | | 15,530.94 |
| **TOTAL ELECTRIC BILLING** | | | **209,667.66** |
| **CURRENT CHARGES** | | | **$209,667.66** |
| **TOTAL AMOUNT DUE** | | | **$209,667.66** |

ENTERED Oct

**ELECTRIC & WATER USAGE HISTORY**

| Month | Days | Electric Usage (kWh) | Electric per day | Water Usage gallons | Water per day |
|---|---|---|---|---|---|
| CURR | 30 | 7156201 | 238,540.03 | | |
| 08-31-18 | 31 | 6885066 | 222,098.90 | | |
| 07-31-18 | 31 | 6453455 | 208,175.97 | | |
| 06-30-18 | 30 | 6951131 | 231,704.37 | | |
| 05-31-18 | 31 | 7513481 | 242,370.35 | | |
| 04-30-18 | 30 | 7616699 | 253,889.97 | | |
| 03-31-18 | 31 | 7820702 | 252,280.71 | | |
| 02-28-18 | 28 | 6921955 | 247,212.68 | | |
| 01-31-18 | 31 | 7503755 | 242,056.61 | | |
| 12-31-17 | 31 | 5939710 | 191,603.55 | | |
| 11-30-17 | 30 | 3985299 | 132,843.30 | | |
| 10-31-17 | 31 | 4065789 | 131,154.48 | | |
| 09-30-17 | 30 | 3798775 | 126,625.83 | | |

| Bill No. | Account Type | Bill Date | Due Date | Amount Due | Late Amount |
|---|---|---|---|---|---|
| 705647 | INDUSTR CONTRACT | 09/30/2018 | 10/20/2018 | $209,667.66 | $212,812.68 |

**MESSAGES:**

**CITY OF PLATTSBURGH - DEPT. OF FINANCE**
*41 City Hall Place*
*Plattsburgh, NY 12901-2985*
*(518) 563-7704*

| Account No. - Customer ID |
|---|
| 35011423 - 23251 |

| Due Date | Amount Due | Late Amount |
|---|---|---|
| 10/20/2018 | $9,290.61 | $9,429.97 |
| Service Address | | Amount Enclosed |
| 32 POWER DAM WAY | | |

Please write your Account Number on your check and enclose this portion of bill with your payment.
Make checks payable to: ***City of Plattsburgh***

NORTH COUNTRY DATA CENTER CORPORATION
20 GREEN WAY PLAZA STE 360
HOUSTON, TX 77046

000063820180007056468000092906110

✂ Detach and return the portion above with your payment ✂

**CITY OF PLATTSBURGH** (518) 563-7704 | **Account No. - Customer ID** 35011423 - 23251 | **Name** NORTH COUNTRY DATA CENTER CORPORATION | **Service Address** 32 POWER DAM WAY

| Meter Number | Read Dates Present | Read Dates Previous | Billing Days | Code | Meter Readings Present | Meter Readings Previous | Usage | Units |
|---|---|---|---|---|---|---|---|---|
| ELECTRIC: 0000028680 | 09/30/2018 | 08/31/2018 | 30 | A | 2465 | 2398 | 241200 | KWH |
| ELECTRIC: 0000028680 | 09/30/2018 | 08/31/2018 | 30 | A | | | 414.00 | KW |

**BILLING SUMMARY**

| | | |
|---|---|---|
| Previous Balance as of: | 09/30/2018 | $11,281.83 |
| Payments | | -$11,281.83 |
| Adjustments | | $0.00 |
| Penalties | | $0.00 |
| Balance Forward as of: | 09/30/2018 | $0.00 |
| Current Charges as of: | 09/30/2018 | $9,290.61 |
| Total Deposits Applied (Since Last Bill) | | $0.00 |
| Total Deposit Interest Applied | | $0.00 |
| Account Balance | | **$9,290.61** |

| | Rate | Usage | Charges |
|---|---|---|---|
| PREVIOUS BALANCE | | | 11,281.83 |
| PAYMENT | | | -11,281.83 |
| **BALANCE FORWARD** | | | 0.00 |
| Energy Charge Rate Class - 4D | 0.023700 | 241200.00 | 5,716.44 |
| Demand Charge Per KW | 3.240000 | 414.00 | 1,341.36 |
| Demand 5% Transformer Discount | -0.162000 | | -67.07 |
| Energy 1.25% Discount | -0.000296 | 241200.00 | -71.40 |
| PPAC Charge | 0.005978 | 241200.00 | 1,441.89 |
| IEEP Charge | 0.001000 | 241200.00 | 241.20 |
| Sales Tax | | | 688.19 |
| **TOTAL ELECTRIC BILLING** | | | **9,290.61** |
| **CURRENT CHARGES** | | | **$9,290.61** |
| **TOTAL AMOUNT DUE** | | | **$9,290.61** |

ENTERED
Oct

**ELECTRIC & WATER USAGE HISTORY**

| Month | Days | Electric Usage (kWh) | Electric per day | Water gallons | Water per day |
|---|---|---|---|---|---|
| CURR | 30 | 241200 | 8,040.00 | | |
| 08-31-18 | 31 | 277200 | 8,941.94 | | |
| 07-31-18 | 31 | 201600 | 6,503.23 | | |
| 06-30-18 | 30 | 342000 | 11,400.00 | | |
| 05-31-18 | 31 | 324000 | 10,451.61 | | |
| 04-30-18 | 38 | 424800 | 11,178.95 | | |
| 03-23-18 | 29 | 374400 | 12,910.34 | | |
| 02-22-18 | 30 | 410400 | 13,680.00 | | |
| 01-23-18 | 33 | 504000 | 15,272.73 | | |
| 12-21-17 | 30 | 511200 | 17,040.00 | | |
| 11-21-17 | 27 | 475200 | 17,600.00 | | |
| 10-25-17 | 29 | 421200 | 14,524.14 | | |
| 09-26-17 | 26 | 579600 | 22,292.31 | | |

| Bill No. | Account Type | Bill Date | Due Date | Amount Due | Late Amount |
|---|---|---|---|---|---|
| 705646 | LARGE COMMERCIAL | 09/30/2018 | 10/20/2018 | $9,290.61 | $9,429.97 |

**MESSAGES:**

## *CITY OF PLATTSBURGH - DEPT. OF FINANCE*

*41 City Hall Place*
*Plattsburgh, NY 12901-2985*
*(518) 563-7704*

| Account No. - Customer ID |
|---|
| 33010467 - 23251 |

| Due Date | Amount Due | Late Amount |
|---|---|---|
| 09/20/2018 | $210,681.54 | $213,841.77 |
| Service Address | | Amount Enclosed |
| 42 SKYWAY PLAZA | | |

Please write your Account Number on your check and enclose this portion of bill with your payment. Make checks payable to: ***City of Plattsburgh***

NORTH COUNTRY DATA CENTER CORPORATION
20 GREEN WAY PLAZA STE 360
HOUSTON, TX 77046

000063820180000613141100210681540

✂ Detach and return the portion above with your payment ✂

**CITY OF PLATTSBURGH** (518) 563-7704

**Account No. - Customer ID** 33010467 - 23251

**Name** NORTH COUNTRY DATA CENTER CORPORATION

**Service Address** 42 SKYWAY PLAZA

| Meter Number | Read Dates Present | Read Dates Previous | Billing Days | Code | Meter Readings Present | Meter Readings Previous | Usage | Units |
|---|---|---|---|---|---|---|---|---|
| ELECTRIC: 0000028525 | 08/31/2018 | 07/31/2018 | 31 | A | 6885066 | 0 | 6885066 | KWH |
| ELECTRIC: 0000028525 | 08/31/2018 | 07/31/2018 | 31 | A | | | 9837.60 | KW |

**BILLING SUMMARY**

| | | |
|---|---|---|
| Previous Balance as of: | 08/31/2018 | $190,100.90 |
| Payments | | -$190,100.90 |
| Adjustments | | $0.00 |
| Penalties | | $0.00 |
| Balance Forward as of: | 08/31/2018 | $0.00 |
| Current Charges as of: | 08/31/2018 | $210,681.54 |
| Total Deposits Applied (Since Last Bill) | | $0.00 |
| Total Deposit Interest Applied | | $0.00 |
| Account Balance | | **$210,681.54** |

| | Rate | Usage | Charges |
|---|---|---|---|
| PREVIOUS BALANCE | | | 190,100.90 |
| PAYMENT | | | -190,100.90 |
| **BALANCE FORWARD** | | | 0.00 |
| Energy Charge Rate Class - 6 | 0.016200 | 6885066.00 | 111,538.07 |
| Demand Charge Per KW | 2.710000 | 9837.60 | 26,659.90 |
| PPAC Charge | 0.007261 | 6885066.00 | 49,992.46 |
| IEEP Charge | 0.001000 | 6885066.00 | 6,885.07 |
| Sales Tax | | | 15,606.04 |
| **TOTAL ELECTRIC BILLING** | | | **210,681.54** |
| **CURRENT CHARGES** | | | **$210,681.54** |
| **TOTAL AMOUNT DUE** | | | **$210,681.54** |

**ELECTRIC & WATER USAGE HISTORY**

| Month | Days | Electric Usage (kWh) | Electric Usage per day | Water Usage gallons | Water Usage per day |
|---|---|---|---|---|---|
| CURR | 31 | 6885066 | 222,098.90 | | |
| 07-31-18 | 31 | 6453455 | 208,175.97 | | |
| 06-30-18 | 30 | 6951131 | 231,704.37 | | |
| 05-31-18 | 31 | 7513481 | 242,370.35 | | |
| 04-30-18 | 30 | 7616699 | 253,889.97 | | |
| 03-31-18 | 31 | 7820702 | 252,280.71 | | |
| 02-28-18 | 28 | 6921955 | 247,212.68 | | |
| 01-31-18 | 31 | 7503755 | 242,056.61 | | |
| 12-31-17 | 31 | 5939710 | 191,603.55 | | |
| 11-30-17 | 30 | 3985299 | 132,843.30 | | |
| 10-31-17 | 31 | 4065789 | 131,154.48 | | |
| 09-30-17 | 30 | 3798775 | 126,625.83 | | |
| 08-31-17 | 31 | 3152335 | 101,688.23 | | |

ENTERED Aug

PAID Sept

| Bill No. | Account Type | Bill Date | Due Date | Amount Due | Late Amount |
|---|---|---|---|---|---|
| 613141 | INDUSTR CONTRACT | 08/31/2018 | 09/20/2018 | $210,681.54 | $213,841.77 |

**MESSAGES:**

## *CITY OF PLATTSBURGH - DEPT. OF FINANCE*

*41 City Hall Place*
*Plattsburgh, NY 12901-2985*
*(518) 563-7704*

| Account No. - Customer ID |
|---|
| 35011423 - 23251 |

| Due Date | Amount Due | Late Amount |
|---|---|---|
| 09/20/2018 | $11,281.83 | $11,451.06 |
| Service Address | | Amount Enclosed |
| 32 POWER DAM WAY | | |

Please write your Account Number on your check and enclose this portion of bill with your payment. Make checks payable to: ***City of Plattsburgh***

NORTH COUNTRY DATA CENTER CORPORATION
20 GREEN WAY PLAZA STE 360
HOUSTON, TX 77046

000063820180006131403000011281839

✂ Detach and return the portion above with your payment ✂

**CITY OF PLATTSBURGH** (518) 563-7704 | **Account No. - Customer ID** 35011423 - 23251 | **Name** NORTH COUNTRY DATA CENTER CORPORATION | **Service Address** 32 POWER DAM WAY

| Meter Number | Read Dates Present | Read Dates Previous | Billing Days | Code | Meter Readings Present | Meter Readings Previous | Usage | Units |
|---|---|---|---|---|---|---|---|---|
| ELECTRIC: 0000028680 | 08/31/2018 | 07/31/2018 | 31 | A | 2398 | 2321 | 277200 | KWH |
| ELECTRIC: 0000028680 | 08/31/2018 | 07/31/2018 | 31 | A | | | 540.00 | KW |

**BILLING SUMMARY**

| | | |
|---|---|---|
| Previous Balance as of: | 08/31/2018 | $8,410.98 |
| Payments | | -$8,410.98 |
| Adjustments | | $0.00 |
| Penalties | | $0.00 |
| Balance Forward as of: | 08/31/2018 | $0.00 |
| Current Charges as of: | 08/31/2018 | $11,281.83 |
| Total Deposits Applied (Since Last Bill) | | $0.00 |
| Total Deposit Interest Applied | | $0.00 |
| Account Balance | | **$11,281.83** |

| | Rate | Usage | Charges |
|---|---|---|---|
| PREVIOUS BALANCE | | | 8,410.98 |
| PAYMENT | | | -8,410.98 |
| **BALANCE FORWARD** | | | 0.00 |
| Energy Charge Rate Class - 4D | 0.023700 | 277200.00 | 6,569.64 |
| Demand Charge Per KW | 3.240000 | 540.00 | 1,749.60 |
| Demand 5% Transformer Discount | -0.162000 | | -87.48 |
| Energy 1.25% Discount | -0.000296 | 277200.00 | -82.05 |
| PPAC Charge | 0.007261 | 277200.00 | 2,012.75 |
| IEEP Charge | 0.001000 | 277200.00 | 277.20 |
| Sales Tax | | | 842.17 |
| **TOTAL ELECTRIC BILLING** | | | **11,281.83** |
| **CURRENT CHARGES** | | | **$11,281.83** |
| **TOTAL AMOUNT DUE** | | | **$11,281.83** |

**ELECTRIC & WATER USAGE HISTORY**

| Month | Days | Electric Usage (kWh) | Electric per day | Water Usage gallons | Water per day |
|---|---|---|---|---|---|
| CURR | 31 | 277200 | 8,941.94 | | |
| 07-31-18 | 31 | 201600 | 6,503.23 | | |
| 06-30-18 | 30 | 342000 | 11,400.00 | | |
| 05-31-18 | 31 | 324000 | 10,451.61 | | |
| 04-30-18 | 38 | 424800 | 11,178.95 | | |
| 03-23-18 | 29 | 374400 | 12,910.34 | | |
| 02-22-18 | 30 | 410400 | 13,680.00 | | |
| 01-23-18 | 33 | 504000 | 15,272.73 | | |
| 12-21-17 | 30 | 511200 | 17,040.00 | | |
| 11-21-17 | 27 | 475200 | 17,600.00 | | |
| 10-25-17 | 29 | 421200 | 14,524.14 | | |
| 09-26-17 | 26 | 579600 | 22,292.31 | | |

ENTERED Aug

PAID Sept

| Bill No. | Account Type | Bill Date | Due Date | Amount Due | Late Amount |
|---|---|---|---|---|---|
| 613140 | LARGE COMMERCIAL | 08/31/2018 | 09/20/2018 | $11,281.83 | $11,451.06 |

**MESSAGES:**

**CITY OF PLATTSBURGH - DEPT. OF FINANCE**
*41 City Hall Place*
*Plattsburgh, NY 12901-2985*
*(518) 563-7704*

| Account No. - Customer ID |
|---|
| 33010467 - 23251 |

| Due Date | Amount Due | Late Amount |
|---|---|---|
| 07/25/2018 | $213,912.57 | $217,121.26 |
| Service Address | | Amount Enclosed |
| 42 SKYWAY PLAZA | | |

Please write your Account Number on your check and enclose this portion of bill with your payment.
Make checks payable to: ***City of Plattsburgh***

NORTH COUNTRY DATA CENTER CORPORATION
20 GREEN WAY PLAZA STE 360
HOUSTON, TX 77046

00006382018000589051200213912579

✂ Detach and return the portion above with your payment ✂

| CITY OF PLATTSBURGH | Account No. - Customer ID | Name | Service Address |
|---|---|---|---|
| (518) 563-7704 | 33010467 - 23251 | NORTH COUNTRY DATA CENTER CORPORATION | 42 SKYWAY PLAZA |

| Meter Number | Read Dates Present | Read Dates Previous | Billing Days | Code | Meter Readings Present | Meter Readings Previous | Usage | Units |
|---|---|---|---|---|---|---|---|---|
| ELECTRIC: 0000028525 | 06/30/2018 | 05/31/2018 | 30 | A | 6951131 | 0 | 6951131 | KWH |
| ELECTRIC: 0000028525 | 06/30/2018 | 05/31/2018 | 30 | A | | | 10200.48 | KW |

**BILLING SUMMARY**

| | | |
|---|---|---|
| Previous Balance as of: | 06/30/2018 | $243,230.55 |
| Payments | | -$243,324.88 |
| Adjustments | | $0.00 |
| Penalties | | $0.00 |
| Balance Forward as of: | 06/30/2018 | -$94.33 |
| Current Charges as of: | 06/30/2018 | $214,006.90 |
| Total Deposits Applied (Since Last Bill) | | $0.00 |
| Total Deposit Interest Applied | | $0.00 |
| Account Balance | | **$213,912.57** |

| | Rate | Usage | Charges |
|---|---|---|---|
| PREVIOUS BALANCE | | | 243,230.55 |
| PAYMENT | | | -243,324.88 |
| **BALANCE FORWARD** | | | -94.33 |
| Energy Charge Rate Class - 6 | 0.016200 | 6951131.00 | 112,608.32 |
| Demand Charge Per KW | 2.710000 | 10200.48 | 27,643.30 |
| PPAC Charge | 0.007330 | 6951131.00 | 50,951.79 |
| IEEP Charge | 0.001000 | 6951131.00 | 6,951.13 |
| Sales Tax | | | 15,852.36 |
| **TOTAL ELECTRIC BILLING** | | | **214,006.90** |
| **CURRENT CHARGES** | | | **$214,006.90** |
| **TOTAL AMOUNT DUE** | | | **$213,912.57** |

ENTERED June

PAID July

**ELECTRIC & WATER USAGE HISTORY**

| Month | Days | Electric Usage (kWh) | Electric Usage per day | Water Usage gallons | Water Usage per day |
|---|---|---|---|---|---|
| CURR | 30 | 6951131 | 231,704.37 | | |
| 05-31-18 | 31 | 7513481 | 242,370.35 | | |
| 04-30-18 | 30 | 7616699 | 253,889.97 | | |
| 03-31-18 | 31 | 7820702 | 252,280.71 | | |
| 02-28-18 | 28 | 6921955 | 247,212.68 | | |
| 01-31-18 | 31 | 7503755 | 242,056.61 | | |
| 12-31-17 | 31 | 5939710 | 191,603.55 | | |
| 11-30-17 | 30 | 3985299 | 132,843.30 | | |
| 10-31-17 | 31 | 4065789 | 131,154.48 | | |
| 09-30-17 | 30 | 3798775 | 126,625.83 | | |
| 08-31-17 | 31 | 3152335 | 101,688.23 | | |
| 07-31-17 | 31 | 1977257 | 63,782.48 | | |
| 06-30-17 | 36 | 1613340 | 44,815.00 | | |

| Bill No. | Account Type | Bill Date | Due Date | Amount Due | Late Amount |
|---|---|---|---|---|---|
| 589051 | INDUSTR CONTRACT | 06/30/2018 | 07/25/2018 | $213,912.57 | $217,121.26 |

**MESSAGES:** THE CITY OF PLATTSBURGH 2017 WATER QUALITY REPORT IS AVAILABLE ONLINE AT WWW.CITYOFPLATTSBURGH-NY.GOV/DOCUMENTCENTER/VIEW/3527. COPIES CAN BE OBTAINED AT CITY HALL, LIBRARY OR BY CALLING 563-1120.

**CITY OF PLATTSBURGH - DEPT. OF FINANCE**
*41 City Hall Place*
*Plattsburgh, NY 12901-2985*
*(518) 563-7704*

| Account No. - Customer ID |
|---|
| 35011423 - 23251 |

| Due Date | Amount Due | Late Amount |
|---|---|---|
| 07/25/2018 | $13,277.01 | $13,476.16 |
| Service Address | | Amount Enclosed |
| 32 POWER DAM WAY | | |

Please write your Account Number on your check and enclose this portion of bill with your payment.
Make checks payable to: ***City of Plattsburgh***

NORTH COUNTRY DATA CENTER CORPORATION
20 GREEN WAY PLAZA STE 360
HOUSTON, TX 77046

00006382018000589050400013277017

✂ Detach and return the portion above with your payment ✂

**CITY OF PLATTSBURGH** (518) 563-7704
**Account No. - Customer ID** 35011423 - 23251
**Name** NORTH COUNTRY DATA CENTER CORPORATION
**Service Address** 32 POWER DAM WAY

| Meter Number | Read Dates Present | Read Dates Previous | Billing Days | Code | Meter Readings Present | Meter Readings Previous | Usage | Units |
|---|---|---|---|---|---|---|---|---|
| ELECTRIC: 0000028680 | 06/30/2018 | 05/31/2018 | 30 | A | 2265 | 2170 | 342000 | KWH |
| ELECTRIC: 0000028680 | 06/30/2018 | 05/31/2018 | 30 | A | | | 468.00 | KW |

**BILLING SUMMARY**

| | | |
|---|---|---|
| Previous Balance as of: | 06/30/2018 | $13,201.78 |
| Payments | | -$13,201.78 |
| Adjustments | | $0.00 |
| Penalties | | $0.00 |
| Balance Forward as of: | 06/30/2018 | $0.00 |
| Current Charges as of: | 06/30/2018 | $13,277.01 |
| Total Deposits Applied (Since Last Bill) | | $0.00 |
| Total Deposit Interest Applied | | $0.00 |
| Account Balance | | **$13,277.01** |

| | Rate | Usage | Charges |
|---|---|---|---|
| PREVIOUS BALANCE | | | 13,201.78 |
| PAYMENT | | | -13,201.78 |
| **BALANCE FORWARD** | | | 0.00 |
| Energy Charge Rate Class - 4D | 0.023700 | 342000.00 | 8,105.40 |
| Demand Charge Per KW | 3.240000 | 468.00 | 1,516.32 |
| Demand 5% Transformer Discount | -0.162000 | | -75.82 |
| Energy 1.25% Discount | -0.000296 | 342000.00 | -101.23 |
| PPAC Charge | 0.007330 | 342000.00 | 2,506.86 |
| IEEP Charge | 0.001000 | 342000.00 | 342.00 |
| Sales Tax | | | 983.48 |
| **TOTAL ELECTRIC BILLING** | | | **13,277.01** |
| **CURRENT CHARGES** | | | **$13,277.01** |
| **TOTAL AMOUNT DUE** | | | **$13,277.01** |

**ELECTRIC & WATER USAGE HISTORY**

| Month | Days | Electric Usage (kWh) | Electric per day | Water Usage gallons | Water per day |
|---|---|---|---|---|---|
| CURR | 30 | 342000 | 11,400.00 | | |
| 05-31-18 | 31 | 324000 | 10,451.61 | | |
| 04-30-18 | 38 | 424800 | 11,178.95 | | |
| 03-23-18 | 29 | 374400 | 12,910.34 | | |
| 02-22-18 | 30 | 410400 | 13,680.00 | | |
| 01-23-18 | 33 | 504000 | 15,272.73 | | |
| 12-21-17 | 30 | 511200 | 17,040.00 | | |
| 11-21-17 | 27 | 475200 | 17,600.00 | | |
| 10-25-17 | 29 | 421200 | 14,524.14 | | |
| 09-26-17 | 26 | 579600 | 22,292.31 | | |

ENTERED June

PAID July

| Bill No. | Account Type | Bill Date | Due Date | Amount Due | Late Amount |
|---|---|---|---|---|---|
| 589050 | LARGE COMMERCIAL | 06/30/2018 | 07/25/2018 | $13,277.01 | $13,476.16 |

**MESSAGES:** THE CITY OF PLATTSBURGH 2017 WATER QUALITY REPORT IS AVAILABLE ONLINE AT WWW.CITYOFPLATTSBURGH-NY.GOV/DOCUMENTCENTER/VIEW/3527. COPIES CAN BE OBTAINED AT CITY HALL, LIBRARY OR BY CALLING 563-1120.

**CITY OF PLATTSBURGH - DEPT. OF FINANCE**
*41 City Hall Place*
*Plattsburgh, NY 12901-2985*
*(518) 563-7704*

| Account No. - Customer ID |
|---|
| 35011423 - 23251 |

| Due Date | Amount Due | Late Amount |
|---|---|---|
| 08/20/2018 | $8,410.98 | $8,537.14 |
| Service Address | | Amount Enclosed |
| 32 POWER DAM WAY | | |

Please write your Account Number on your check
and enclose this portion of bill with your payment.
Make checks payable to: ***City of Plattsburgh***

NORTH COUNTRY DATA CENTER CORPORATION
20 GREEN WAY PLAZA STE 360
HOUSTON, TX 77046

00006382018000597408400008410987

✂ Detach and return the portion above with your payment ✂

| **CITY OF PLATTSBURGH** | **Account No. - Customer ID** | **Name** | **Service Address** |
|---|---|---|---|
| (518) 563-7704 | 35011423 - 23251 | NORTH COUNTRY DATA CENTER CORPORATION | 32 POWER DAM WAY |

| Meter Number | Read Dates | | Billing Days | Meter Readings | | | Usage | Units |
|---|---|---|---|---|---|---|---|---|
| | Present | Previous | | Code | Present | Previous | | |
| ELECTRIC: 0000028680 | 07/31/2018 | 06/30/2018 | 31 | A | 2321 | 2265 | 201600 | KWH |
| ELECTRIC: 0000028680 | 07/31/2018 | 06/30/2018 | 31 | A | | | 540.00 | KW |

| **BILLING SUMMARY** | | |
|---|---|---|
| Previous Balance as of: | 07/31/2018 | $13,277.01 |
| Payments | | -$13,277.01 |
| Adjustments | | $0.00 |
| Penalties | | $0.00 |
| Balance Forward as of: | 07/31/2018 | $0.00 |
| Current Charges as of: | 07/31/2018 | $8,410.98 |
| Total Deposits Applied (Since Last Bill) | | $0.00 |
| Total Deposit Interest Applied | | $0.00 |
| Account Balance | | **$8,410.98** |

| | Rate | Usage | Charges |
|---|---|---|---|
| PREVIOUS BALANCE | | | 13,277.01 |
| PAYMENT | | | -13,277.01 |
| **BALANCE FORWARD** | | | 0.00 |
| Energy Charge Rate Class - 4D | 0.023700 | 201600.00 | 4,777.92 |
| Demand Charge Per KW | 3.240000 | 540.00 | 1,749.60 |
| Demand 5% Transformer Discount | -0.162000 | | -87.48 |
| Energy 1.25% Discount | -0.000296 | 201600.00 | -59.67 |
| PPAC Charge | 0.005982 | 201600.00 | 1,205.97 |
| IEEP Charge | 0.001000 | 201600.00 | 201.60 |
| Sales Tax | | | 623.04 |
| **TOTAL ELECTRIC BILLING** | | | **8,410.98** |
| **CURRENT CHARGES** | | | **$8,410.98** |
| **TOTAL AMOUNT DUE** | | | **$8,410.98** |

**ELECTRIC & WATER USAGE HISTORY**

| Month | Days | Electric Usage (kWh) | Electric per day | Water Usage gallons | Water per day |
|---|---|---|---|---|---|
| CURR | 31 | 201600 | 6,503.23 | | |
| 06-30-18 | 30 | 342000 | 11,400.00 | | |
| 05-31-18 | 31 | 324000 | 10,451.61 | | |
| 04-30-18 | 38 | 424800 | 11,178.95 | | |
| 03-23-18 | 29 | 374400 | 12,910.34 | | |
| 02-22-18 | 30 | 410400 | 13,680.00 | | |
| 01-23-18 | 33 | 504000 | 15,272.73 | | |
| 12-21-17 | 30 | 511200 | 17,040.00 | | |
| 11-21-17 | 27 | 475200 | 17,600.00 | | |
| 10-25-17 | 29 | 421200 | 14,524.14 | | |
| 09-26-17 | 26 | 579600 | 22,292.31 | | |

ENTERED 7.31.18

PAID 8.20

| Bill No. | Account Type | Bill Date | Due Date | Amount Due | Late Amount |
|---|---|---|---|---|---|
| 597408 | LARGE COMMERCIAL | 07/31/2018 | 08/20/2018 | $8,410.98 | $8,537.14 |

**MESSAGES:**

## *CITY OF PLATTSBURGH - DEPT. OF FINANCE*

*41 City Hall Place*
*Plattsburgh, NY 12901-2985*
*(518) 563-7704*

| Account No. - Customer ID |
|---|
| 33010467 - 23251 |

| Due Date | Amount Due | Late Amount |
|---|---|---|
| 08/20/2018 | $190,100.90 | $192,952.41 |
| Service Address | | Amount Enclosed |
| 42 SKYWAY PLAZA | | |

Please write your Account Number on your check
and enclose this portion of bill with your payment.
Make checks payable to: ***City of Plattsburgh***

NORTH COUNTRY DATA CENTER CORPORATION
20 GREEN WAY PLAZA STE 360
HOUSTON, TX 77046

00006382018000597409200190100909

✂ Detach and return the portion above with your payment ✂

**CITY OF PLATTSBURGH**
(518) 563-7704

**Account No. - Customer ID**
33010467 - 23251

**Name**
NORTH COUNTRY DATA CENTER CORPORATION

**Service Address**
42 SKYWAY PLAZA

| Meter Number | Read Dates | | Billing Days | Meter Readings | | | Usage | Units |
|---|---|---|---|---|---|---|---|---|
| | Present | Previous | | Code | Present | Previous | | |
| ELECTRIC: 0000028525 | 07/31/2018 | 06/30/2018 | 31 | A | 6453455 | 0 | 6453455 | KWH |
| ELECTRIC: 0000028525 | 07/31/2018 | 06/30/2018 | 31 | A | | | 9747.36 | KW |

| BILLING SUMMARY | | |
|---|---|---|
| Previous Balance as of: | 07/31/2018 | $213,912.57 |
| Payments | | -$213,912.57 |
| Adjustments | | $0.00 |
| Penalties | | $0.00 |
| Balance Forward as of: | 07/31/2018 | $0.00 |
| Current Charges as of: | 07/31/2018 | $190,100.90 |
| Total Deposits Applied (Since Last Bill) | | $0.00 |
| Total Deposit Interest Applied | | $0.00 |
| Account Balance | | **$190,100.90** |

| | Rate | Usage | Charges |
|---|---|---|---|
| PREVIOUS BALANCE | | | 213,912.57 |
| PAYMENT | | | -213,912.57 |
| **BALANCE FORWARD** | | | 0.00 |
| Energy Charge Rate Class - 6 | 0.016200 | 6453455.00 | 104,545.97 |
| Demand Charge Per KW | 2.710000 | 9747.36 | 26,415.35 |
| PPAC Charge | 0.005982 | 6453455.00 | 38,604.57 |
| IEEP Charge | 0.001000 | 6453455.00 | 6,453.46 |
| Sales Tax | | | 14,081.55 |
| **TOTAL ELECTRIC BILLING** | | | **190,100.90** |
| **CURRENT CHARGES** | | | **$190,100.90** |
| **TOTAL AMOUNT DUE** | | | **$190,100.90** |

**ELECTRIC & WATER USAGE HISTORY**

| Month | Days | Electric Usage (kWh) | Electric per day | Water Usage gallons | Water per day |
|---|---|---|---|---|---|
| CURR | 31 | 6453455 | 208,175.97 | | |
| 06-30-18 | 30 | 6951131 | 231,704.37 | | |
| 05-31-18 | 31 | 7513481 | 242,370.35 | | |
| 04-30-18 | 30 | 7616699 | 253,889.97 | | |
| 03-31-18 | 31 | 7820702 | 252,280.71 | | |
| 02-28-18 | 28 | 6921955 | 247,212.68 | | |
| 01-31-18 | 31 | 7503755 | 242,056.61 | | |
| 12-31-17 | 31 | 5939710 | 191,603.55 | | |
| 11-30-17 | 30 | 3985299 | 132,843.30 | | |
| 10-31-17 | 31 | 4065789 | 131,154.48 | | |
| 09-30-17 | 30 | 3798775 | 126,625.83 | | |
| 08-31-17 | 31 | 3152335 | 101,688.23 | | |
| 07-31-17 | 31 | 1977257 | 63,782.48 | | |

ENTERED 7.31.18

PAID 8.20

| Bill No. | Account Type | Bill Date | Due Date | Amount Due | Late Amount |
|---|---|---|---|---|---|
| 597409 | INDUSTR CONTRACT | 07/31/2018 | 08/20/2018 | $190,100.90 | $192,952.41 |

**MESSAGES:**

***CITY OF PLATTSBURGH - DEPT. OF FINANCE***

*41 City Hall Place*
*Plattsburgh, NY 12901-2985*
*(518) 563-7704*

| Account No. - Customer ID |
| --- |
| 33010467 - 23251 |

| Due Date | Amount Due | Late Amount |
| --- | --- | --- |
| 06/20/2018 | $243,230.55 | $246,879.01 |
| Service Address | | Amount Enclosed |
| 42 SKYWAY PLAZA | | |

Please write your Account Number on your check
and enclose this portion of bill with your payment.
Make checks payable to: ***City of Plattsburgh***

NORTH COUNTRY DATA CENTER CORPORATION
20 GREEN WAY PLAZA STE 360
HOUSTON, TX 77046

ENTERED May

0000638201800057703340024323055 4

PAID June

✂ Detach and return the portion above with your payment ✂

| **CITY OF PLATTSBURGH** | **Account No. - Customer ID** | **Name** | **Service Address** |
| --- | --- | --- | --- |
| (518) 563-7704 | 33010467 - 23251 | NORTH COUNTRY DATA CENTER CORPORATION | 42 SKYWAY PLAZA |

| Meter Number | Read Dates | | Billing Days | Meter Readings | | | Usage | Units |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| | Present | Previous | | Code | Present | Previous | | |
| ELECTRIC: 0000028525 | 05/31/2018 | 04/30/2018 | 31 | A | 7513481 | 0 | 7513481 | KWH |
| ELECTRIC: 0000028525 | 05/31/2018 | 04/30/2018 | 31 | A | | | 10835.52 | KW |

| BILLING SUMMARY | | |
| --- | --- | --- |
| Previous Balance as of: | 05/31/2018 | $239,241.05 |
| Payments | | -$239,335.38 |
| Adjustments | | $0.00 |
| Penalties | | $0.00 |
| Balance Forward as of: | 05/31/2018 | -$94.33 |
| Current Charges as of: | 05/31/2018 | $243,324.88 |
| Total Deposits Applied (Since Last Bill) | | $0.00 |
| Total Deposit Interest Applied | | $0.00 |
| Account Balance | | **$243,230.55** |

| | Rate | Usage | Charges |
| --- | --- | --- | --- |
| PREVIOUS BALANCE | | | 239,241.05 |
| PAYMENT | | | -239,335.38 |
| **BALANCE FORWARD** | | | -94.33 |
| Energy Charge Rate Class - 6 | 0.016200 | 7513481.00 | 121,718.39 |
| Demand Charge Per KW | 2.710000 | 10835.52 | 29,364.26 |
| PPAC Charge | 0.008878 | 7513481.00 | 66,704.68 |
| IEEP Charge | 0.001000 | 7513481.00 | 7,513.48 |
| Sales Tax | | | 18,024.07 |
| **TOTAL ELECTRIC BILLING** | | | **243,324.88** |
| **CURRENT CHARGES** | | | **$243,324.88** |
| **TOTAL AMOUNT DUE** | | | **$243,230.55** |

.032385/kWh

| ELECTRIC & WATER USAGE HISTORY | | | | | |
| --- | --- | --- | --- | --- | --- |
| Month | Days | Electric Usage | | Water Usage | |
| | | (kWh) | per day | gallons | per day |
| CURR | 31 | 7513481 | 242,370.35 | | |
| 04-30-18 | 30 | 7616699 | 253,889.97 | | |
| 03-31-18 | 31 | 7820702 | 252,280.71 | | |
| 02-28-18 | 28 | 6921955 | 247,212.68 | | |
| 01-31-18 | 31 | 7503755 | 242,056.61 | | |
| 12-31-17 | 31 | 5939710 | 191,603.55 | | |
| 11-30-17 | 30 | 3985299 | 132,843.30 | | |
| 10-31-17 | 31 | 4065789 | 131,154.48 | | |
| 09-30-17 | 30 | 3798775 | 126,625.83 | | |
| 08-31-17 | 31 | 3152335 | 101,688.23 | | |
| 07-31-17 | 31 | 1977257 | 63,782.48 | | |
| 06-30-17 | 36 | 1613340 | 44,815.00 | | |
| 05-25-17 | 0 | 0 | | | |

| Bill No. | Account Type | Bill Date | Due Date | Amount Due | Late Amount |
| --- | --- | --- | --- | --- | --- |
| 577033 | INDUSTR CONTRACT | 05/31/2018 | 06/20/2018 | $243,230.55 | $246,879.01 |

**MESSAGES:**

## *CITY OF PLATTSBURGH - DEPT. OF FINANCE*

*41 City Hall Place*
*Plattsburgh, NY 12901-2985*
*(518) 563-7704*

| Account No. - Customer ID |
|---|
| 35011423 - 23251 |

| Due Date | Amount Due | Late Amount |
|---|---|---|
| 06/20/2018 | $13,201.78 | $13,399.81 |
| Service Address | | Amount Enclosed |
| 32 POWER DAM WAY | | |

Please write your Account Number on your check and enclose this portion of bill with your payment. Make checks payable to: ***City of Plattsburgh***

NORTH COUNTRY DATA CENTER CORPORATION
20 GREEN WAY PLAZA STE 360
HOUSTON, TX 77046

PAID June

ENTERED May

00006382018000577032600013201785

✂ Detach and return the portion above with your payment ✂

**CITY OF PLATTSBURGH** (518) 563-7704

**Account No. - Customer ID** 35011423 - 23251

**Name** NORTH COUNTRY DATA CENTER CORPORATION

**Service Address** 32 POWER DAM WAY

| Meter Number | Read Dates Present | Read Dates Previous | Billing Days | Code | Meter Readings Present | Meter Readings Previous | Usage | Units |
|---|---|---|---|---|---|---|---|---|
| ELECTRIC: 0000028680 | 05/31/2018 | 04/30/2018 | 31 | A | 2170 | 2080 | 324000 | KWH |
| ELECTRIC: 0000028680 | 05/31/2018 | 04/30/2018 | 31 | A | | | 468.00 | KW |

**BILLING SUMMARY**

| | | |
|---|---|---|
| Previous Balance as of: | 05/31/2018 | $17,232.23 |
| Payments | | -$17,232.23 |
| Adjustments | | $0.00 |
| Penalties | | $111.61 |
| Balance Forward as of: | 05/31/2018 | $0.00 |
| Current Charges as of: | 05/31/2018 | $13,201.78 |
| Total Deposits Applied (Since Last Bill) | | $0.00 |
| Total Deposit Interest Applied | | $0.00 |
| Account Balance | | **$13,201.78** |

| | Rate | Usage | Charges |
|---|---|---|---|
| PREVIOUS BALANCE | | | 17,232.23 |
| LATE PAYMENT | | | 111.61 |
| PAYMENT | | | -17,232.23 |
| **BALANCE FORWARD** | | | 0.00 |
| Energy Charge Rate Class - 4D | 0.023700 | 324000.00 | 7,678.80 |
| Demand Charge Per KW | 3.240000 | 468.00 | 1,516.32 |
| Demand 5% Transformer Discount | -0.162000 | | -75.82 |
| Energy 1.25% Discount | -0.000296 | 324000.00 | -95.90 |
| PPAC Charge | 0.008878 | 324000.00 | 2,876.47 |
| IEEP Charge | 0.001000 | 324000.00 | 324.00 |
| Sales Tax | | | 977.91 |
| **TOTAL ELECTRIC BILLING** | | | **13,201.78** |
| **CURRENT CHARGES** | | | **$13,201.78** |
| **TOTAL AMOUNT DUE** | | | **$13,201.78** |

**ELECTRIC & WATER USAGE HISTORY**

| Month | Days | Electric Usage (kWh) | Electric Usage per day | Water Usage gallons | Water Usage per day |
|---|---|---|---|---|---|
| CURR | 31 | 324000 | 10,451.61 | | |
| 04-30-18 | 38 | 424800 | 11,178.95 | | |
| 03-23-18 | 29 | 374400 | 12,910.34 | | |
| 02-22-18 | 30 | 410400 | 13,680.00 | | |
| 01-23-18 | 33 | 504000 | 15,272.73 | | |
| 12-21-17 | 30 | 511200 | 17,040.00 | | |
| 11-21-17 | 27 | 475200 | 17,600.00 | | |
| 10-25-17 | 29 | 421200 | 14,524.14 | | |
| 09-26-17 | 26 | 579600 | 22,292.31 | | |

.0407/kWh

| Bill No. | Account Type | Bill Date | Due Date | Amount Due | Late Amount |
|---|---|---|---|---|---|
| 577032 | LARGE COMMERCIAL | 05/31/2018 | 06/20/2018 | $13,201.78 | $13,399.81 |

**MESSAGES:**

## *CITY OF PLATTSBURGH - DEPT. OF FINANCE*

*41 City Hall Place*
*Plattsburgh, NY 12901-2985*
*(518) 563-7704*

| Account No. - Customer ID |
|---|
| 33010467 - 23251 |

| Due Date | Amount Due | Late Amount |
|---|---|---|
| 05/20/2018 | $239,241.05 | $242,829.68 |
| **Service Address** | | **Amount Enclosed** |
| 42 SKYWAY PLAZA | | |

Please write your Account Number on your check
and enclose this portion of bill with your payment.
Make checks payable to: ***City of Plattsburgh***

NORTH COUNTRY DATA CENTER CORPORATION
20 GREEN WAY PLAZA STE 360
HOUSTON, TX 77046

000063820180005621693002392410052

✂ Detach and return the portion above with your payment ✂

**CITY OF PLATTSBURGH**
(518) 563-7704

**Account No. - Customer ID**
33010467 - 23251

**Name**
NORTH COUNTRY DATA CENTER CORPORATION

**Service Address**
42 SKYWAY PLAZA

| Meter Number | Read Dates Present | Read Dates Previous | Billing Days | Code | Meter Readings Present | Meter Readings Previous | Usage | Units |
|---|---|---|---|---|---|---|---|---|
| ELECTRIC: 0000028525 | 04/30/2018 | 03/31/2018 | 30 | A | 7616699 | 0 | 7616699 | KWH |
| ELECTRIC: 0000028525 | 04/30/2018 | 03/31/2018 | 30 | A | | | 10898.88 | KW |
| ELECTRIC: 0000028525 | 04/30/2018 | 03/31/2018 | 30 | A | 7616699 | 0 | 1.92 | KVA |

**BILLING SUMMARY**

| | | |
|---|---|---|
| Previous Balance as of: | 04/30/2018 | $315,116.30 |
| Payments | | -$315,116.30 |
| Adjustments | | $0.00 |
| Penalties | | $0.00 |
| Balance Forward as of: | 04/30/2018 | -$94.33 |
| Current Charges as of: | 04/30/2018 | $239,335.38 |
| Total Deposits Applied (Since Last Bill) | | $0.00 |
| Total Deposit Interest Applied | | $94.33 |
| Account Balance | | **$239,241.05** |

| | | | | Charges |
|---|---|---|---|---|
| PREVIOUS BALANCE | | | | 315,116.30 |
| CREDITS/DEPOSITS | 04/30/2018 | | | 94.33 |
| PAYMENT | | | | -315,116.30 |
| **BALANCE FORWARD** | | | | -94.33 |
| | | **Rate** | **Usage** | **Charges** |
| Energy Charge Rate Class - 6 | | 0.016200 | 7616699.00 | 123,390.52 |
| Demand Charge Per KW | | 2.710000 | 10898.88 | 29,535.97 |
| Reactive Demand Charge Per Kvar | | .3200 | 1.92 | 0.61 |
| PPAC Charge | | 0.008017 | 7616699.00 | 61,063.08 |
| IEEP Charge | | 0.001000 | 7616699.00 | 7,616.70 |
| Sales Tax | | | | 17,728.50 |
| **TOTAL ELECTRIC BILLING** | | | | **239,335.38** |
| **CURRENT CHARGES** | | | | **$239,335.38** |
| **TOTAL AMOUNT DUE** | | | | **$239,241.05** |

ENTERED April

.03142/KWh

pd 5/18

PAID May

**ELECTRIC & WATER USAGE HISTORY**

| Month | Days | Electric Usage (kWh) | Electric Usage per day | Water Usage gallons | Water Usage per day |
|---|---|---|---|---|---|
| CURR | 30 | 7616699 | 253,889.97 | | |
| 03-31-18 | 31 | 7820702 | 252,280.71 | | |
| 02-28-18 | 28 | 6921955 | 247,212.68 | | |
| 01-31-18 | 31 | 7503755 | 242,056.61 | | |
| 12-31-17 | 31 | 5939710 | 191,603.55 | | |
| 11-30-17 | 30 | 3985299 | 132,843.30 | | |
| 10-31-17 | 31 | 4065789 | 131,154.48 | | |
| 09-30-17 | 30 | 3798775 | 126,625.83 | | |
| 08-31-17 | 31 | 3152335 | 101,688.23 | | |
| 07-31-17 | 31 | 1977257 | 63,782.48 | | |
| 06-30-17 | 36 | 1613340 | 44,815.00 | | |
| 05-25-17 | 0 | 0 | | | |

| Bill No. | Account Type | Bill Date | Due Date | Amount Due | Late Amount |
|---|---|---|---|---|---|
| 562169 | INDUSTR CONTRACT | 04/30/2018 | 05/20/2018 | $239,241.05 | $242,829.68 |

**MESSAGES:**

## *CITY OF PLATTSBURGH - DEPT. OF FINANCE*

*41 City Hall Place*
*Plattsburgh, NY 12901-2985*
*(518) 563-7704*

| Account No. - Customer ID |
|---|
| 35011423 - 23251 |

| Due Date | Amount Due | Late Amount |
|---|---|---|
| 05/20/2018 | $35,977.61 | $36,515.60 |
| Service Address | | Amount Enclosed |
| 32 POWER DAM WAY | | |

Please write your Account Number on your check and enclose this portion of bill with your payment.
Make checks payable to: ***City of Plattsburgh***

NORTH COUNTRY DATA CENTER CORPORATION
20 GREEN WAY PLAZA STE 360
HOUSTON, TX 77046

00006382018000562168500035977610

✂ Detach and return the portion above with your payment ✂

**CITY OF PLATTSBURGH** (518) 563-7704

**Account No. - Customer ID** 35011423 - 23251

**Name** NORTH COUNTRY DATA CENTER CORPORATION

**Service Address** 32 POWER DAM WAY

| Meter Number | Read Dates | | Billing Days | Meter Readings | | | Usage | Units |
|---|---|---|---|---|---|---|---|---|
| | Present | Previous | | Code | Present | Previous | | |
| ELECTRIC: 0000028680 | 04/30/2018 | 03/23/2018 | 38 | A | 2080 | 1962 | 424800 | KWH |
| ELECTRIC: 0000028680 | 04/30/2018 | 03/23/2018 | 38 | A | | | 576.00 | KW |

| BILLING SUMMARY | | |
|---|---|---|
| Previous Balance as of: | 04/30/2018 | $18,633.77 |
| Payments | | -$0.00 |
| Adjustments | | $0.00 |
| Penalties | | $111.61 |
| Balance Forward as of: | 04/30/2018 | $18,745.38 |
| Current Charges as of: | 04/30/2018 | $17,232.23 |
| Total Deposits Applied (Since Last Bill) | | $0.00 |
| Total Deposit Interest Applied | | $0.00 |
| Account Balance | | **$35,977.61** |

| | Rate | Usage | Charges |
|---|---|---|---|
| PREVIOUS BALANCE | | | 18,633.77 |
| LATE PAYMENT — took off paid on time | | | 111.61 |
| **BALANCE FORWARD** | | | 18,745.38 |
| Energy Charge Rate Class - 4D | 0.023700 | 424800.00 | 10,067.76 |
| Demand Charge Per KW | 3.990000 | 576.00 | 2,298.24 |
| Demand 5% Transformer Discount | -0.199500 | | -114.91 |
| Energy 1.25% Discount | -0.000296 | 424800.00 | -125.74 |
| PPAC Charge | 0.008017 | 424800.00 | 3,405.62 |
| IEEP Charge | 0.001000 | 424800.00 | 424.80 |
| Sales Tax | | | 1,276.46 |
| **TOTAL ELECTRIC BILLING** | | | **17,232.23** |
| **CURRENT CHARGES** | | | **$17,232.23** |
| **TOTAL AMOUNT DUE** | | | **$35,977.61** |

| **ELECTRIC & WATER USAGE HISTORY** | | | | | |
|---|---|---|---|---|---|
| Month | Days | Electric Usage (kWh) | per day | Water Usage gallons | per day |
| CURR | 38 | 424800 | 11,178.95 | | |
| 03-23-18 | 29 | 374400 | 12,910.34 | | |
| 02-22-18 | 30 | 410400 | 13,680.00 | | |
| 01-23-18 | 33 | 504000 | 15,272.73 | | |
| 12-21-17 | 30 | 511200 | 17,040.00 | | |
| 11-21-17 | 27 | 475200 | 17,600.00 | | |
| 10-25-17 | 29 | 421200 | 14,524.14 | | |
| 09-26-17 | 26 | 579600 | 22,292.31 | | |

.04057/kwh

ENTERED April

pd 5/18

PAID May

| Bill No. | Account Type | Bill Date | Due Date | Amount Due | Late Amount |
|---|---|---|---|---|---|
| 562168 | LARGE COMMERCIAL | 04/30/2018 | 05/20/2018 | $35,977.61 | $36,515.60 |

**MESSAGES:**

**CITY OF PLATTSBURGH - DEPT. OF FINANCE**
*6 Miller Street*
*Plattsburgh, NY 12901-1820*
*(518) 563-7704*

| Account No. - Customer ID |
|---|
| 33010467 - 23251 |

| Due Date | Amount Due | Late Amount |
|---|---|---|
| 04/20/2018 | $315,116.30 | $319,843.05 |
| Service Address | | Amount Enclosed |
| 42 SKYWAY PLAZA | | |

Please write your Account Number on your check and enclose this portion of bill with your payment.
Make checks payable to: ***City of Plattsburgh***

NORTH COUNTRY DATA CENTER CORPORATION
20 GREEN WAY PLAZA STE 360
HOUSTON, TX 77046

PAID April

ENTERED March

00006382018000549325900315116301

✂ Detach and return the portion above with your payment ✂

**CITY OF PLATTSBURGH** (518) 563-7704
**Account No. - Customer ID** 33010467 - 23251
**Name** NORTH COUNTRY DATA CENTER CORPORATION
**Service Address** 42 SKYWAY PLAZA

| Meter Number | Read Dates Present | Read Dates Previous | Billing Days | Code | Meter Readings Present | Meter Readings Previous | Usage | Units |
|---|---|---|---|---|---|---|---|---|
| ELECTRIC: 0000028525 | 03/31/2018 | 02/28/2018 | 31 | A | 7820702 | 0 | 7820702 | KWH |
| ELECTRIC: 0000028525 | 03/31/2018 | 02/28/2018 | 31 | A | | | 10797.12 | KW |

**BILLING SUMMARY**

| | | |
|---|---|---|
| Previous Balance as of: | 03/31/2018 | $270,244.05 |
| Payments | | -$270,244.05 |
| Adjustments | | $0.00 |
| Penalties | | $0.00 |
| Balance Forward as of: | 03/31/2018 | $0.00 |
| Current Charges as of: | 03/31/2018 | $315,116.30 |
| Total Deposits Applied (Since Last Bill) | | $0.00 |
| Total Deposit Interest Applied | | $0.00 |
| Account Balance | | **$315,116.30** |

| | Rate | Usage | Charges |
|---|---|---|---|
| PREVIOUS BALANCE | | | 270,244.05 |
| PAYMENT | | | -270,244.05 |
| **BALANCE FORWARD** | | | 0.00 |
| Energy Charge Rate Class - 6 | 0.016200 | 7820702.00 | 126,695.37 |
| Demand Charge Per KW | 3.350000 | 10797.12 | 36,170.35 |
| PPAC Charge | 0.015483 | 7820702.00 | 121,087.93 |
| IEEP Charge | 0.001000 | 7820702.00 | 7,820.70 |
| Sales Tax | | | 23,341.95 |
| **TOTAL ELECTRIC BILLING** | | | **315,116.30** |
| **CURRENT CHARGES** | | | **$315,116.30** |
| **TOTAL AMOUNT DUE** | | | **$315,116.30** |

**ELECTRIC & WATER USAGE HISTORY**

| Month | Days | Electric Usage (kWh) | Electric Usage per day | Water Usage galions | Water Usage per day |
|---|---|---|---|---|---|
| CURR | 31 | 7820702 | 252,280.71 | | |
| 02-28-18 | 28 | 6921955 | 247,212.68 | | |
| 01-31-18 | 31 | 7503755 | 242,056.61 | | |
| 12-31-17 | 31 | 5939710 | 191,603.55 | | |
| 11-30-17 | 30 | 3985299 | 132,843.30 | | |
| 10-31-17 | 31 | 4065789 | 131,154.48 | | |
| 09-30-17 | 30 | 3798775 | 126,625.83 | | |
| 08-31-17 | 31 | 3152335 | 101,688.23 | | |
| 07-31-17 | 31 | 1977257 | 63,782.48 | | |
| 06-30-17 | 36 | 1613340 | 44,815.00 | | |
| 05-25-17 | 0 | 0 | | | |

| Bill No. | Account Type | Bill Date | Due Date | Amount Due | Late Amount |
|---|---|---|---|---|---|
| 549325 | INDUSTR CONTRACT | 03/31/2018 | 04/20/2018 | $315,116.30 | $319,843.05 |

**MESSAGES:**

**_CITY OF PLATTSBURGH - DEPT. OF FINANCE_**
*6 Miller Street*
*Plattsburgh, NY 12901-1820*
*(518) 563-7704*

| Account No. - Customer ID |
|---|
| 35011423 - 23251 |

| Due Date | Amount Due | Late Amount |
|---|---|---|
| 04/24/2018 | $18,633.77 | $18,913.28 |
| Service Address | | Amount Enclosed |
| 32 POWER DAM WAY | | |

Please write your Account Number on your check and enclose this portion of bill with your payment.
Make checks payable to: ***City of Plattsburgh***

NORTH COUNTRY DATA CENTER CORPORATION 969
20 GREENWAY PLZ STE 360
HOUSTON, TX 77046-2016

000063820180005513452000186337 76

✂ Detach and return the portion above with your payment ✂

**CITY OF PLATTSBURGH** (518) 563-7704 | **Account No. - Customer ID** 35011423 - 23251 | **Name** NORTH COUNTRY DATA CENTER CORPORATION | **Service Address** 32 POWER DAM WAY

| Meter Number | Read Dates Present | Read Dates Previous | Billing Days | Code | Meter Readings Present | Meter Readings Previous | Usage | Units |
|---|---|---|---|---|---|---|---|---|
| ELECTRIC: 0000028680 | 03/23/2018 | 02/22/2018 | 29 | A | 1962 | 1858 | 374400 | KWH |
| ELECTRIC: 0000028680 | 03/23/2018 | 02/22/2018 | 29 | A | | | 612.00 | KW |

**BILLING SUMMARY**

| | | |
|---|---|---|
| Previous Balance as of: | 03/31/2018 | $19,725.37 |
| Payments | | -$19,725.37 |
| Adjustments | | $0.00 |
| Penalties | | $0.00 |
| Balance Forward as of: | 03/31/2018 | $0.00 |
| Current Charges as of: | 03/31/2018 | $18,633.77 |
| Total Deposits Applied (Since Last Bill) | | $0.00 |
| Total Deposit Interest Applied | | $0.00 |
| Account Balance | | **$18,633.77** |

| | Rate | Usage | Charges |
|---|---|---|---|
| PREVIOUS BALANCE | | | 19,725.37 |
| PAYMENT | | | -19,725.37 |
| **BALANCE FORWARD** | | | 0.00 |
| Energy Charge Rate Class - 4D | 0.023700 | 374400.00 | 8,873.28 |
| Demand Charge Per KW | 3.990000 | 612.00 | 2,441.88 |
| Demand 5% Transformer Discount | -0.199500 | | -122.09 |
| Energy 1.25% Discount | -0.000296 | 374400.00 | -110.82 |
| PPAC Charge | 0.015483 | 374400.00 | 5,796.84 |
| IEEP Charge | 0.001000 | 374400.00 | 374.40 |
| Sales Tax | | | 1,380.28 |
| **TOTAL ELECTRIC BILLING** | | | **18,633.77** |
| **CURRENT CHARGES** | | | **$18,633.77** |
| **TOTAL AMOUNT DUE** | | | **$18,633.77** |

**ELECTRIC & WATER USAGE HISTORY**

| Month | Days | Electric Usage (kWh) | Electric Usage per day | Water Usage gallons | Water Usage per day |
|---|---|---|---|---|---|
| CURR | 29 | 374400 | 12,910.34 | | |
| 02-22-18 | 30 | 410400 | 13,680.00 | | |
| 01-23-18 | 33 | 504000 | 15,272.73 | | |
| 12-21-17 | 30 | 511200 | 17,040.00 | | |
| 11-21-17 | 27 | 475200 | 17,600.00 | | |
| 10-25-17 | 29 | 421200 | 14,524.14 | | |
| 09-26-17 | 26 | 579600 | 22,292.31 | | |

ENTERED March

PAID April

| Bill No. | Account Type | Bill Date | Due Date | Amount Due | Late Amount |
|---|---|---|---|---|---|
| 551345 | LARGE COMMERCIAL | 03/31/2018 | 04/24/2018 | $18,633.77 | $18,913.28 |

**MESSAGES:**

## *CITY OF PLATTSBURGH - DEPT. OF FINANCE*

*6 Miller Street*
*Plattsburgh, NY 12901-1820*
*(518) 563-7704*

| Account No. - Customer ID |
|---|
| 33010467 - 23251 |

| Due Date | Amount Due | Late Amount |
|---|---|---|
| 03/20/2018 | $270,244.05 | $274,297.71 |
| Service Address | | Amount Enclosed |
| 42 SKYWAY PLAZA | | |

Please write your Account Number on your check and enclose this portion of bill with your payment. Make checks payable to: ***City of Plattsburgh***

COINMINT LLC
20 GREEN WAY PLAZA STE 360
HOUSTON, TX 77046

000063820180005412390002702440056

✂ Detach and return the portion above with your payment ✂

| **CITY OF PLATTSBURGH** | **Account No. - Customer ID** | **Name** | **Service Address** |
|---|---|---|---|
| (518) 563-7704 | 33010467 - 23251 | COINMINT LLC | 42 SKYWAY PLAZA |

| Meter Number | Read Dates Present | Read Dates Previous | Billing Days | Code | Meter Readings Present | Meter Readings Previous | Usage | Units |
|---|---|---|---|---|---|---|---|---|
| ELECTRIC: 0000028525 | 02/28/2018 | 01/31/2018 | 28 | A | 6921955 | 0 | 6921955 | KWH |
| ELECTRIC: 0000028525 | 02/28/2018 | 01/31/2018 | 28 | A | | | 10677.60 | KW |

| **BILLING SUMMARY** | | |
|---|---|---|
| Previous Balance as of: | 02/28/2018 | $232,864.32 |
| Payments | | -$232,864.32 |
| Adjustments | | $0.00 |
| Penalties | | $0.00 |
| Balance Forward as of: | 02/28/2018 | $0.00 |
| Current Charges as of: | 02/28/2018 | $270,244.05 |
| Total Deposits Applied (Since Last Bill) | | $0.00 |
| Total Deposit Interest Applied | | $0.00 |
| Account Balance | | **$270,244.05** |

| | Rate | Usage | Charges |
|---|---|---|---|
| PREVIOUS BALANCE | | | 232,864.32 |
| PAYMENT | | | -232,864.32 |
| **BALANCE FORWARD** | | | 0.00 |
| Energy Charge Rate Class - 6 | 0.016200 | 6921955.00 | 112,135.67 |
| Demand Charge Per KW | 3.350000 | 10677.60 | 35,769.96 |
| PPAC Charge - purchasepower | 0.013782 | 6921955.00 | 95,398.38 |
| IEEP Charge | 0.001000 | 6921955.00 | 6,921.96 |
| Sales Tax | | | 20,018.08 |
| **TOTAL ELECTRIC BILLING** | | | **270,244.05** |
| **CURRENT CHARGES** | | | **$270,244.05** |
| **TOTAL AMOUNT DUE** | | | **$270,244.05** |

**ELECTRIC & WATER USAGE HISTORY**

| Month | Days | Electric Usage (kWh) | Electric Usage per day | Water Usage gallons | Water Usage per day |
|---|---|---|---|---|---|
| CURR | 28 | 6921955 | 247,212.68 | | |
| 01-31-18 | 31 | 7503755 | 242,056.61 | | |
| 12-31-17 | 31 | 5939710 | 191,603.55 | | |
| 11-30-17 | 30 | 3985299 | 132,843.30 | | |
| 10-31-17 | 31 | 4065789 | 131,154.48 | | |
| 09-30-17 | 30 | 3798775 | 126,625.83 | | |
| 08-31-17 | 31 | 3152335 | 101,688.23 | | |
| 07-31-17 | 31 | 1977257 | 63,782.48 | | |
| 06-30-17 | 36 | 1613340 | 44,815.00 | | |
| 05-25-17 | 0 | 0 | | | |

.039/KWh

ENTERED Feb

PAID March

| Bill No. | Account Type | Bill Date | Due Date | Amount Due | Late Amount |
|---|---|---|---|---|---|
| 541239 | INDUSTR CONTRACT | 02/28/2018 | 03/20/2018 | $270,244.05 | $274,297.71 |

**MESSAGES:**

## *CITY OF PLATTSBURGH - DEPT. OF FINANCE*

*6 Miller Street*
*Plattsburgh, NY 12901-1820*
*(518) 563-7704*

| Account No. - Customer ID |
|---|
| 35011423 - 23251 |

| Due Date | Amount Due | Late Amount |
|---|---|---|
| 03/19/2018 | $19,725.37 | $20,021.26 |
| Service Address | | Amount Enclosed |
| 32 POWER DAM WAY | | |

Please write your Account Number on your check and enclose this portion of bill with your payment. Make checks payable to: ***City of Plattsburgh***

COINMINT LLC
20 GREENWAY PLZ STE 360
HOUSTON, TX 77046-2016

973

0000638201800053761570001972537 3

✂ Detach and return the portion above with your payment ✂

**CITY OF PLATTSBURGH**
(518) 563-7704

**Account No. - Customer ID** 35011423 - 23251
**Name** COINMINT LLC
**Service Address** 32 POWER DAM WAY

| Meter Number | Read Dates Present | Read Dates Previous | Billing Days | Code | Meter Readings Present | Meter Readings Previous | Usage | Units |
|---|---|---|---|---|---|---|---|---|
| ELECTRIC: 0000028680 | 02/22/2018 | 01/23/2018 | 30 | A | 1858 | 1744 | 410400 | KWH |
| ELECTRIC: 0000028680 | 02/22/2018 | 01/23/2018 | 30 | A | | | 684.00 | KW |

| BILLING SUMMARY | | |
|---|---|---|
| Previous Balance as of: | 02/27/2018 | $19,965.66 |
| Payments | | -$19,965.66 |
| Adjustments | | $0.00 |
| Penalties | | $0.00 |
| Balance Forward as of: | 02/27/2018 | $0.00 |
| Current Charges as of: | 02/27/2018 | $19,725.37 |
| Total Deposits Applied (Since Last Bill) | | $0.00 |
| Total Deposit Interest Applied | | $0.00 |
| Account Balance | | **$19,725.37** |

| | Rate | Usage | Charges |
|---|---|---|---|
| PREVIOUS BALANCE | | | 19,965.66 |
| PAYMENT | | | -19,965.66 |
| **BALANCE FORWARD** | | | 0.00 |
| Energy Charge Rate Class - 4D | 0.023700 | 410400.00 | 9,726.48 |
| Demand Charge Per KW | 3.990000 | 684.00 | 2,729.16 |
| Demand 5% Transformer Discount | -0.199500 | | -136.46 |
| Energy 1.25% Discount | -0.000296 | 410400.00 | -121.48 |
| PPAC Charge | 0.013782 | 410400.00 | 5,656.13 |
| IEEP Charge | 0.001000 | 410400.00 | 410.40 |
| Sales Tax | | | 1,461.14 |
| **TOTAL ELECTRIC BILLING** | | | **19,725.37** |
| **CURRENT CHARGES** | | | **$19,725.37** |
| **TOTAL AMOUNT DUE** | | | **$19,725.37** |

ENTERED Feb

| ELECTRIC & WATER USAGE HISTORY | | | | | |
|---|---|---|---|---|---|
| Month | Days | Electric Usage (kWh) | per day | Water Usage gallons | per day |
| CURR | 30 | 410400 | 13,680.00 | | |
| 01-23-18 | 33 | 504000 | 15,272.73 | | |
| 12-21-17 | 30 | 511200 | 17,040.00 | | |
| 11-21-17 | 27 | 475200 | 17,600.00 | | |
| 10-25-17 | 29 | 421200 | 14,524.14 | | |
| 09-26-17 | 26 | 579600 | 22,292.31 | | |

.048/kWh

PAID March

| Bill No. | Account Type | Bill Date | Due Date | Amount Due | Late Amount |
|---|---|---|---|---|---|
| 537615 | LARGE COMMERCIAL | 02/27/2018 | 03/19/2018 | $19,725.37 | $20,021.26 |

**MESSAGES:**

# <u>Exhibit 3</u>

**APPEAL TO THE NEW YORK STATE PUBLIC SERVICE COMMISSION**

Case Numbers: 941259 and 953952

## Complaint Details of North Country Data Center Corp

### 1. What is the problem you are experiencing?

Public Service Law ("PSL") § 65 (1) mandates that all "charges made or demanded" by a gas corporation, electric corporation, or municipality "for gas, electricity or any service rendered or to be rendered . . . be *just and reasonable* and not more than allowed by law or by order of the commission" (PSL § 65 [1] [emphasis added]). As described in further detail below, based on the information available to North Country Data Center Corp ("NCDCC") at this time, the Plattsburgh Municipal Lighting Department ("PMLD") appears to be charging its customers, including NCDCC, unjust and unreasonable rates in violation of PSL § 65.

According to the New York State Independent System Operator, Inc. (the "NYISO"), the average market rate for electricity, including transmission charges, fees, and taxes, from January 31, 2019 to February 28, 2019 was $0.031/kWh. In contrast, PMLD charged NCDCC a staggering $0.053/kWh during that billing cycle (*see* Exhibit 1, which is a copy of NCDCC's February invoice from PMLD). More specifically, PMLD charged NCDCC $321,128.92 for its consumption of 5,978,731 kWh of electricity. On its face, charging a customer more than 1.7 times the market rate for electricity is unjust and unreasonable in violation of PSL § 65. As such, NCDCC did not remit a full payment to PMLD for its February invoice. Instead, it remitted the undisputed amount of the invoice—$182,723.59—which represents the market rate for electricity during the February billing cycle (*see* Exhibit 2, which is a spreadsheet NCDCC created to determine the market rate for electricity during the February billing cycle). Following this partial payment, NCDCC immediately contacted PMLD in an effort to secure the documentation underlying NCDCC's February invoice to determine why the cost of electricity charged to NCDCC (and presumably other PMLD customers) was so unreasonably high. As part of this outreach, NCDCC assured PMLD that it is ready and able to remit any necessary payment following its review of this documentation. Unfortunately, PMLD denied NCDCC's information request and sent NCDCC a termination notice for April 4, 2019 at 10:00 AM for its failure to remit full payment on the February invoice.

Since PMLD has refused to provide NCDCC with any documentation regarding the disputed February invoice, NCDCC is forced to file this complaint based on its review of the average market rate for electricity and resulting conclusion that PMLD is overcharging its customers for the supplemental power PMLD purchases on the market. More specifically, as NCDCC understands the situation, PMLD has a monthly allotment of low-cost hydropower from the New York Power Authority ("NYPA") (the "Energy Allotment"). If PMLD exceeds its Energy Allotment during a given month (*i.e.*, its customers use more energy than is covered by the Energy Allotment), PMLD is required to purchase "supplemental power" to meet its load. Due to its membership in the New York Municipal Power Agency ("NYMPA"), PMLD purchases all of its supplemental power from NYMPA. PMLD, in turn, recovers the cost of its supplemental power purchases through its customers using a vehicle known as the "Purchased Power Adjustment Charges" or the "PPAC." Given this structure, if PMLD is required to buy supplemental power from NYMPA, PMLD's PPAC to customers will increase to offset that purchase.

Surprisingly, NYMPA's tariff does not explicitly address how NYMPA sets the supplemental cost of power it charges to PMLD (or its other members), and PMLD's tariff does not address whether PMLD is involved in NYMPA's cost-setting process or allow PMLD to purchase supplemental power at a lower market-based rate. Nor, to NCDCC's knowledge, is NYMPA's supplemental cost of power set by the Public Service Commission (the "Commission"). Instead, NCDCC understands informally that NYMPA (perhaps with NYMPA members, including PMLD) simply sets the supplemental cost of power it will charge its members two times a year—one price for supplemental power purchases during the "cooling season" and one price for supplemental power purchases during the "heating season." NCDCC further understands that neither the Commission nor other stakeholders (such as affected ratepayers) are involved in this critical rate-setting process, notwithstanding the fact that this cost directly impacts PMLD's customers through the PPAC.

Due to the fact that the PPAC charged to NCDCC on the disputed February invoice was more than triple the average PPAC charged to NCDCC since it became a customer in 2016, NCDCC assumes that PMLD exceeded its Energy Allotment sometime in late 2018 or early 2019 and was using this invoice to pass the cost of that supplemental power to its customers. If NCDCC's assumption is correct, the cost of the supplemental power purchased by PMLD caused NCDCC's—and presumably other PMLD customers'—February invoice amount to skyrocket to levels unreasonably higher than is justified by the market and PMLD's tariff. For this reason, NCDCC did not remit payment in full for its disputed February invoice.

As part of this complaint, NCDCC requests that the Department of Public Service Office of Consumer Services ("OCS") Staff facilitate: (1) PMLD providing OCS and NCDCC with all documentation supporting NCDCC's February 2019 invoice and related PPAC, as well as all documentation supporting NCDCC's February 2018 and March 2018 invoices and related PPACs (*see also* response to Question 4); and (2) a subsequent mediation between NCDCC and PMLD (and, to the extent necessary, NYMPA) during which time NCDCC and OCS can review the provided documentation to determine whether PMLD is charging NCDCC and its other customers unjust and unreasonable rates in violation of PSL § 65.

**2. What resolution are you seeking?**

A mediation session with PMLD (and, to the extent necessary, NYMPA) and a representative from OCS following PMLD providing OCS and NCDCC with all documentation supporting NCDCC's February invoice and related PPAC as well as all documentation supporting NCDCC's February 2018 and March 2018 invoices and related PPACs (*see also* response to Question 4). This provision of this supporting documentation and subsequent mediation should allow OCS and NCDCC to determine quickly and conclusively whether PMLD is charging NCDCC and its other customers unjust and unreasonable rates in violation of PSL § 65.

**3. What resolution did they offer to you?**

As noted above, unfortunately, when NCDCC sought to discuss this issue with PMLD and requested documentation supporting the disputed NCDCC February invoice and related PPAC, PMLD rejected NCDCC's outreach and request and sent a notice of service termination for April 4, 2019 at 10:00 AM. As a result, NCDCC was forced to file this complaint against PMLD (*see* 16 NYCRR § 13.3 [c] [7]).

**4. Disputed Amount.**

The disputed amount for the February invoice is $138,405.33, which represents the difference between NCDCC's total invoice for its February usage ($321,128.92) and the undisputed portion thereof that PMLD timely paid on March 22, 2019 ($182,723.59). In addition, NCDCC disputes every invoice it has received wherein PMLD charged it for the supplemental cost of power. Without additional documentation from PMLD, it is impossible to know exactly what invoices are impacted by prior supplemental power purchases, but, at this juncture, NCDCC believes that its February and March 2018 bills were similarly impacted by PMLD's unjust and unreasonable rates associated with the purchase of supplemental power. Copies of those invoices are attached as Exhibit 3.

**5. Disputed Amount Explanation.**

See answer to prior question.

# EXHIBIT 1

## *CITY OF PLATTSBURGH - DEPT. OF FINANCE*

*41 City Hall Place*
*Plattsburgh, NY 12901-2985*
*(518) 563-7704*

| Account No. - Customer ID |
|---|
| 33010467 - 23251 |

| Due Date | Amount Due | Late Amount |
|---|---|---|
| 03/23/2019 | $321,128.92 | $325,945.85 |
| Service Address | | Amount Enclosed |
| 42 SKYWAY PLAZA | | |

Please write your Account Number on your check and enclose this portion of bill with your payment.
Make checks payable to: ***City of Plattsburgh***

NORTH COUNTRY DATA CENTER CORPORATION
3505 SAGE RD
UNIT 2305
HOUSTON, TX 77056

00006382019800768478000321128928

✂ Detach and return the portion above with your payment ✂

**CITY OF PLATTSBURGH**
(518) 563-7704

**Account No. - Customer ID**
33010467 - 23251

**Name**
NORTH COUNTRY DATA CENTER CORPORATION

**Service Address**
42 SKYWAY PLAZA

| Meter Number | Read Dates Present | Read Dates Previous | Billing Days | Code | Meter Readings Present | Meter Readings Previous | Usage | Units |
|---|---|---|---|---|---|---|---|---|
| ELECTRIC: 0000028525 | 02/28/2019 | 01/31/2019 | 28 | A | 5978731 | 0 | 5978731 | KWH |
| ELECTRIC: 0000028525 | 02/28/2019 | 01/31/2019 | 28 | A | | | 10053.60 | KW |

| BILLING SUMMARY | | |
|---|---|---|
| Previous Balance as of: | 02/28/2019 | $213,642.81 |
| Payments | | -$213,642.81 |
| Adjustments | | $0.00 |
| Penalties | | $0.00 |
| Balance Forward as of: | 02/28/2019 | $0.00 |
| Current Charges as of: | 02/28/2019 | $321,128.92 |
| Total Deposits Applied (Since Last Bill) | | $0.00 |
| Total Deposit Interest Applied | | $0.00 |
| Account Balance | | **$321,128.92** |

| | Rate | Usage | Charges |
|---|---|---|---|
| PREVIOUS BALANCE | | | 213,642.81 |
| PAYMENT | | | -213,642.81 |
| **BALANCE FORWARD** | | | 0.00 |
| Energy Charge Rate Class - 6 | 0.016200 | 5978731.00 | 96,855.44 |
| Demand Charge Per KW | 3.350000 | 10053.60 | 33,679.56 |
| PPAC Charge | 0.026900 | 5978731.00 | 160,827.86 |
| IEEP Charge | 0.001000 | 5978731.00 | 5,978.73 |
| Sales Tax | | | 23,787.33 |
| **TOTAL ELECTRIC BILLING** | | | **321,128.92** |
| **CURRENT CHARGES** | | | **$321,128.92** |
| **TOTAL AMOUNT DUE** | | | **$321,128.92** |

**ELECTRIC & WATER USAGE HISTORY**

| Month | Days | Electric Usage (kWh) | Electric Usage per day | Water Usage gallons | Water Usage per day |
|---|---|---|---|---|---|
| CURR | 28 | 5978731 | 213,526.11 | | |
| 01-31-19 | 31 | 6590357 | 212,592.16 | | |
| 12-31-18 | 31 | 6541459 | 211,014.81 | | |
| 11-30-18 | 30 | 7109927 | 236,997.57 | | |
| 10-31-18 | 31 | 7635475 | 246,305.65 | | |
| 09-30-18 | 30 | 7156201 | 238,540.03 | | |
| 08-31-18 | 31 | 6885066 | 222,098.90 | | |
| 07-31-18 | 31 | 6453455 | 208,175.97 | | |
| 06-30-18 | 30 | 6951131 | 231,704.37 | | |
| 05-31-18 | 31 | 7513481 | 242,370.35 | | |
| 04-30-18 | 30 | 7616699 | 253,889.97 | | |
| 03-31-18 | 31 | 7820702 | 252,280.71 | | |
| 02-28-18 | 28 | 6921955 | 247,212.68 | | |

ENTERED
March

| Bill No. | Account Type | Bill Date | Due Date | Amount Due | Late Amount |
|---|---|---|---|---|---|
| 768478 | INDUSTR CONTRACT | 02/28/2019 | 03/23/2019 | $321,128.92 | $325,945.85 |

**MESSAGES:**

# EXHIBIT 2

| | MWh | KWh | KWh | KWh | KWh | KWh | KW | |
|---|---|---|---|---|---|---|---|---|
| | | **Energy** | **Transmiss** | **Fees** | **Taxes** | **Total** | **Usage** | **Cost** |
| Friday, February 01, 2019 | $ 38.016 | $ 0.038 | $ 0.005 | $ 0.004 | $ 0.003 | $ 0.050 | 213500 | $ 10,709.80 |
| Saturday, February 02, 2019 | $ 34.756 | $ 0.035 | $ 0.005 | $ 0.003 | $ 0.003 | $ 0.046 | 213500 | $ 9,882.94 |
| Sunday, February 03, 2019 | $ 24.620 | $ 0.025 | $ 0.005 | $ 0.002 | $ 0.002 | $ 0.034 | 213500 | $ 7,312.07 |
| Monday, February 04, 2019 | $ 14.510 | $ 0.015 | $ 0.005 | $ 0.001 | $ 0.001 | $ 0.022 | 213500 | $ 4,747.74 |
| Tuesday, February 05, 2019 | $ 13.585 | $ 0.014 | $ 0.005 | $ 0.001 | $ 0.001 | $ 0.021 | 213500 | $ 4,513.17 |
| Wednesday, February 06, 2019 | $ 25.817 | $ 0.026 | $ 0.005 | $ 0.003 | $ 0.002 | $ 0.036 | 213500 | $ 7,615.67 |
| Thursday, February 07, 2019 | $ 19.857 | $ 0.020 | $ 0.005 | $ 0.002 | $ 0.002 | $ 0.029 | 213500 | $ 6,103.99 |
| Friday, February 08, 2019 | $ 25.345 | $ 0.025 | $ 0.005 | $ 0.003 | $ 0.002 | $ 0.035 | 213500 | $ 7,495.96 |
| Saturday, February 09, 2019 | $ 24.777 | $ 0.025 | $ 0.005 | $ 0.002 | $ 0.002 | $ 0.034 | 213500 | $ 7,351.89 |
| Sunday, February 10, 2019 | $ 26.096 | $ 0.026 | $ 0.005 | $ 0.003 | $ 0.002 | $ 0.036 | 213500 | $ 7,686.44 |
| Monday, February 11, 2019 | $ 26.693 | $ 0.027 | $ 0.005 | $ 0.003 | $ 0.002 | $ 0.037 | 213500 | $ 7,837.86 |
| Tuesday, February 12, 2019 | $ 30.175 | $ 0.030 | $ 0.005 | $ 0.003 | $ 0.003 | $ 0.041 | 213500 | $ 8,721.03 |
| Wednesday, February 13, 2019 | $ 27.279 | $ 0.027 | $ 0.005 | $ 0.003 | $ 0.002 | $ 0.037 | 213500 | $ 7,986.49 |
| Thursday, February 14, 2019 | $ 20.984 | $ 0.021 | $ 0.005 | $ 0.002 | $ 0.002 | $ 0.030 | 213500 | $ 6,389.84 |
| Friday, February 15, 2019 | $ 11.531 | $ 0.012 | $ 0.005 | $ 0.001 | $ 0.001 | $ 0.019 | 213500 | $ 3,992.20 |
| Saturday, February 16, 2019 | $ 16.839 | $ 0.017 | $ 0.005 | $ 0.002 | $ 0.001 | $ 0.025 | 213500 | $ 5,338.51 |
| Sunday, February 17, 2019 | $ 19.679 | $ 0.020 | $ 0.005 | $ 0.002 | $ 0.002 | $ 0.028 | 213500 | $ 6,058.84 |
| Monday, February 18, 2019 | $ 25.293 | $ 0.025 | $ 0.005 | $ 0.003 | $ 0.002 | $ 0.035 | 213500 | $ 7,482.77 |
| Tuesday, February 19, 2019 | $ 24.479 | $ 0.024 | $ 0.005 | $ 0.002 | $ 0.002 | $ 0.034 | 213500 | $ 7,276.30 |
| Wednesday, February 20, 2019 | $ 24.983 | $ 0.025 | $ 0.005 | $ 0.002 | $ 0.002 | $ 0.035 | 213500 | $ 7,404.14 |
| Thursday, February 21, 2019 | $ 7.458 | $ 0.007 | $ 0.005 | $ 0.001 | $ 0.001 | $ 0.014 | 213500 | $ 2,959.13 |
| Friday, February 22, 2019 | $ 21.204 | $ 0.021 | $ 0.005 | $ 0.002 | $ 0.002 | $ 0.030 | 213500 | $ 6,445.64 |
| Saturday, February 23, 2019 | $ 19.453 | $ 0.019 | $ 0.005 | $ 0.002 | $ 0.002 | $ 0.028 | 213500 | $ 6,001.52 |
| Sunday, February 24, 2019 | $ 14.762 | $ 0.015 | $ 0.005 | $ 0.001 | $ 0.001 | $ 0.023 | 213500 | $ 4,811.70 |
| Monday, February 25, 2019 | $ 26.669 | $ 0.027 | $ 0.005 | $ 0.003 | $ 0.002 | $ 0.037 | 213500 | $ 7,831.77 |
| Tuesday, February 26, 2019 | $ (29.131) | $ (0.029) | $ 0.005 | $ (0.003) | $ (0.003) | $ (0.030) | 213500 | $ (6,321.23) |
| Wednesday, February 27, 2019 | $ 30.381 | $ 0.030 | $ 0.005 | $ 0.003 | $ 0.003 | $ 0.041 | 213500 | $ 8,773.28 |
| Thursday, February 28, 2019 | $ 36.456 | $ 0.036 | $ 0.005 | $ 0.004 | $ 0.003 | $ 0.048 | 213500 | $ 10,314.13 |
| **Total** | $ 21.520 | $ 0.022 | $ 0.005 | $ 0.002 | $ 0.002 | $ 0.031 | | **$ 182,723.59** |

# EXHIBIT 3

## *CITY OF PLATTSBURGH - DEPT. OF FINANCE*

*6 Miller Street*
*Plattsburgh, NY 12901-1820*
*(518) 563-7704*

| Account No. - Customer ID |
|---|
| 33010467 - 23251 |

| Due Date | Amount Due | Late Amount |
|---|---|---|
| 03/20/2018 | $270,244.05 | $274,297.71 |
| Service Address | | Amount Enclosed |
| 42 SKYWAY PLAZA | | |

Please write your Account Number on your check and enclose this portion of bill with your payment. Make checks payable to: ***City of Plattsburgh***

COINMINT LLC
20 GREEN WAY PLAZA STE 360
HOUSTON, TX 77046

000063820180005412390002702440056

✂ Detach and return the portion above with your payment ✂

| **CITY OF PLATTSBURGH** | **Account No. - Customer ID** | **Name** | **Service Address** |
|---|---|---|---|
| (518) 563-7704 | 33010467 - 23251 | COINMINT LLC | 42 SKYWAY PLAZA |

| Meter Number | Read Dates Present | Read Dates Previous | Billing Days | Code | Meter Readings Present | Meter Readings Previous | Usage | Units |
|---|---|---|---|---|---|---|---|---|
| ELECTRIC: 0000028525 | 02/28/2018 | 01/31/2018 | 28 | A | 6921955 | 0 | 6921955 | KWH |
| ELECTRIC: 0000028525 | 02/28/2018 | 01/31/2018 | 28 | A | | | 10677.60 | KW |

| **BILLING SUMMARY** | | |
|---|---|---|
| Previous Balance as of: | 02/28/2018 | $232,864.32 |
| Payments | | -$232,864.32 |
| Adjustments | | $0.00 |
| Penalties | | $0.00 |
| Balance Forward as of: | 02/28/2018 | $0.00 |
| Current Charges as of: | 02/28/2018 | $270,244.05 |
| Total Deposits Applied (Since Last Bill) | | $0.00 |
| Total Deposit Interest Applied | | $0.00 |
| Account Balance | | **$270,244.05** |

| | Rate | Usage | Charges |
|---|---|---|---|
| PREVIOUS BALANCE | | | 232,864.32 |
| PAYMENT | | | -232,864.32 |
| **BALANCE FORWARD** | | | 0.00 |
| Energy Charge Rate Class - 6 | 0.016200 | 6921955.00 | 112,135.67 |
| Demand Charge Per KW | 3.350000 | 10677.60 | 35,769.96 |
| PPAC Charge - purchasepower | 0.013782 | 6921955.00 | 95,398.38 |
| IEEP Charge | 0.001000 | 6921955.00 | 6,921.96 |
| Sales Tax | | | 20,018.08 |
| **TOTAL ELECTRIC BILLING** | | | **270,244.05** |
| **CURRENT CHARGES** | | | **$270,244.05** |
| **TOTAL AMOUNT DUE** | | | **$270,244.05** |

| **ELECTRIC & WATER USAGE HISTORY** | | | | | |
|---|---|---|---|---|---|
| Month | Days | Electric Usage (kWh) | per day | Water Usage gallons | per day |
| CURR | 28 | 6921955 | 247,212.68 | | |
| 01-31-18 | 31 | 7503755 | 242,056.61 | | |
| 12-31-17 | 31 | 5939710 | 191,603.55 | | |
| 11-30-17 | 30 | 3985299 | 132,843.30 | | |
| 10-31-17 | 31 | 4065789 | 131,154.48 | | |
| 09-30-17 | 30 | 3798775 | 126,625.83 | | |
| 08-31-17 | 31 | 3152335 | 101,688.23 | | |
| 07-31-17 | 31 | 1977257 | 63,782.48 | | |
| 06-30-17 | 36 | 1613340 | 44,815.00 | | |
| 05-25-17 | 0 | 0 | | | |

.039 | Kwh

ENTERED Feb

PAID March

| Bill No. | Account Type | Bill Date | Due Date | Amount Due | Late Amount |
|---|---|---|---|---|---|
| 541239 | INDUSTR CONTRACT | 02/28/2018 | 03/20/2018 | $270,244.05 | $274,297.71 |

**MESSAGES:**

## *CITY OF PLATTSBURGH - DEPT. OF FINANCE*

*6 Miller Street*
*Plattsburgh, NY 12901-1820*
*(518) 563-7704*

| Account No. - Customer ID |
|---|
| 33010467 - 23251 |

| Due Date | Amount Due | Late Amount |
|---|---|---|
| 04/20/2018 | $315,116.30 | $319,843.05 |
| Service Address | | Amount Enclosed |
| 42 SKYWAY PLAZA | | |

Please write your Account Number on your check and enclose this portion of bill with your payment. Make checks payable to: ***City of Plattsburgh***

NORTH COUNTRY DATA CENTER CORPORATION
20 GREEN WAY PLAZA STE 360
HOUSTON, TX 77046

PAID April

ENTERED March

0000638201800054932590031511630l

✂ Detach and return the portion above with your payment ✂

**CITY OF PLATTSBURGH** (518) 563-7704

**Account No. - Customer ID** 33010467 - 23251

**Name** NORTH COUNTRY DATA CENTER CORPORATION

**Service Address** 42 SKYWAY PLAZA

| Meter Number | Read Dates Present | Read Dates Previous | Billing Days | Code | Meter Readings Present | Meter Readings Previous | Usage | Units |
|---|---|---|---|---|---|---|---|---|
| ELECTRIC: 0000028525 | 03/31/2018 | 02/28/2018 | 31 | A | 7820702 | 0 | 7820702 | KWH |
| ELECTRIC: 0000028525 | 03/31/2018 | 02/28/2018 | 31 | A | | | 10797.12 | KW |

| BILLING SUMMARY | | |
|---|---|---|
| Previous Balance as of: | 03/31/2018 | $270,244.05 |
| Payments | | -$270,244.05 |
| Adjustments | | $0.00 |
| Penalties | | $0.00 |
| Balance Forward as of: | 03/31/2018 | $0.00 |
| Current Charges as of: | 03/31/2018 | $315,116.30 |
| Total Deposits Applied (Since Last Bill) | | $0.00 |
| Total Deposit Interest Applied | | $0.00 |
| Account Balance | | **$315,116.30** |

| | Rate | Usage | Charges |
|---|---|---|---|
| PREVIOUS BALANCE | | | 270,244.05 |
| PAYMENT | | | -270,244.05 |
| **BALANCE FORWARD** | | | 0.00 |
| Energy Charge Rate Class - 6 | 0.016200 | 7820702.00 | 126,695.37 |
| Demand Charge Per KW | 3.350000 | 10797.12 | 36,170.35 |
| PPAC Charge | 0.015483 | 7820702.00 | 121,087.93 |
| IEEP Charge | 0.001000 | 7820702.00 | 7,820.70 |
| Sales Tax | | | 23,341.95 |
| **TOTAL ELECTRIC BILLING** | | | **315,116.30** |
| **CURRENT CHARGES** | | | **$315,116.30** |
| **TOTAL AMOUNT DUE** | | | **$315,116.30** |

**ELECTRIC & WATER USAGE HISTORY**

| Month | Days | Electric Usage (kWh) | Electric Usage per day | Water Usage gallons | Water Usage per day |
|---|---|---|---|---|---|
| CURR | 31 | 7820702 | 252,280.71 | | |
| 02-28-18 | 28 | 6921955 | 247,212.68 | | |
| 01-31-18 | 31 | 7503755 | 242,056.61 | | |
| 12-31-17 | 31 | 5939710 | 191,603.55 | | |
| 11-30-17 | 30 | 3985299 | 132,843.30 | | |
| 10-31-17 | 31 | 4065789 | 131,154.48 | | |
| 09-30-17 | 30 | 3798775 | 126,625.83 | | |
| 08-31-17 | 31 | 3152335 | 101,688.23 | | |
| 07-31-17 | 31 | 1977257 | 63,782.48 | | |
| 06-30-17 | 36 | 1613340 | 44,815.00 | | |
| 05-25-17 | 0 | 0 | | | |

| Bill No. | Account Type | Bill Date | Due Date | Amount Due | Late Amount |
|---|---|---|---|---|---|
| 549325 | INDUSTR CONTRACT | 03/31/2018 | 04/20/2018 | $315,116.30 | $319,843.05 |

**MESSAGES:**

# <u>Exhibit 4</u>

**APPEAL TO THE NEW YORK STATE**
**PUBLIC SERVICE COMMISSION**

Case Numbers: 941259 and 953952

NEW YORK STATE OF OPPORTUNITY.
Department of Public Service

Three Empire State Plaza, Albany, NY 12223-1350
www.dps.ny.gov



April 5, 2019

John McManus, Esq.
Harris Beach PLLC
677 Broadway, Suite 1101
Albany NY 12207

Re: Case Numbers: 941259 and 953952: North Country Data Center Corp (NCDCC):

Dear Mr. McManus:

This letter is in response to Case Numbers: 941259 concerning Plattsburgh Municipal Lighting Department's (PMLD) request for a security deposit from NCDCC and 953952 concerns a billing dispute of two NCDCC accounts.

NCDCC has two accounts, each at separate locations: account number 3301046742 is for service at 42 Skyway Plaza, Plattsburgh, NY 12901; and, account number 35011423 is for service at 32 Power Dam Way, Plattsburgh, NY 12901.

Department of Public Service Staff reviewed NCDCC's historical usage at both locations and calculated the estimated deposit for the NCDCC accounts. Staff's findings are detailed as follows:

1) Staff calculated the average billed kWh and KW demand for the 12-month period of February 2018 – January 2019 for both locations.
2) Staff added the two locations average usages together and added the demands together to arrive at one usage billing determinant and one demand billing determinant.

3) To determine the delivery portion of the bill, Staff multiplied those billing determinants by the effective PMLD tariff rates for Service Classification 6 (SC-6), “Large General Service”. Staff has been advised that the operations at 32 Power Dam Way will be relocated to the 42 Skyway Plaza location. Skyway Plaza is billed under SC-6.
4) To determine the PPAC portion of the bill, Staff multiplied the kWh billing determinant by the **current PPAC**.
5) Staff added the PPAC and delivery portions today and applied an 8% tax factor to arrive at an estimated monthly bill, which Staff then multiplied by two. The deposit amount is the average monthly bill multiplied by two.
6) Staff calculations result in a **$915,135 financial security requirement** for NCDCC.

There are a few differences in the Staff calculation of the deposit and that provided by PMLD. Most notably:

1) PMLD used a forecast PPAC, which Staff cannot verify as accurate because it does not have a workpaper supporting the calculation.
2) PMLD priced the two locations out separately because the Power Dam Way location was operational at the time the financial security requirement was requested from NCDCC.

Based on Staff’s review and calculations of the deposit, and comparing it to PMLD’s calculation of the deposit, I find that the PMLD security deposit request is not unreasonable based on the DPS Staff calculations. PMLD revised its original deposit request from $1,195,041 (of which $250,000 had already been paid by NCDCC) to $1,019,503. I find the request in accordance with the new tariff and Rider A language and the requested $769,503 is NCDCC’s responsibility to pay in the form of check or irrevocable letter of credit.

Regarding whether NCDCC can pay the deposit with a surety bond, and the alleged conflict between Commission regulations and the tariff, please note, the tariff - as filed- was approved by the Commission. The language limits payment to cash or letter of credit. Since Plattsburg is bound by the terms of its tariff, it can only accept the listed forms of payment. If NCDCC wants to dispute this requirement, it may file a petition for clarification with the Secretary to the Commission or petition the Commission to modify the tariff to include a surety bond as an option to satisfy a deposit requirement. NCDCC, however, is bound by the terms of the existing tariff until the Commission rules otherwise.

Your second case filed on April 4, 2019 raised concerns about billing of the two accounts by PMLD. Based on the information provided by PMLD, Staff finds that your client’s concerns are unfounded and the billing of the two NCDCC accounts is accurate and the charges applied to the accounts are valid. No adjustments are warranted. The balances of the accounts are NCDCC’s responsibility to pay.

Attached for your information are:

1)PMLD Tariff Leafs 13-15, 21-22 - SC-6 and PPAC

2)PMLD's Purchased Power Statement – March 25, 2019

3)NYMPA Tariff Leafs 52-53

4)Commission Order 18-E-0126

5)PMLD responses to NCDCC concerns (2 files)

6)Staff Deposit Analysis spreadsheet

7)"Guide to Filing Complaints."

If you have any questions, you may contact me directly at 518-322-4029 or by e-mail at david.labombard@dps.ny.gov.

Sincerely,

David R. LaBombard
Manager, Complaint Analysis
Office of Consumer Services

Attachments

cc: Konstantin Podolny, Esq., Read and Laniado, LLP

# <u>Exhibit 5</u>

**APPEAL TO THE NEW YORK STATE**
**PUBLIC SERVICE COMMISSION**

Case Numbers: 941259 and 953952

HARRIS BEACH PLLC
ATTORNEYS AT LAW

677 BROADWAY, SUITE 1101
ALBANY, NY 12207
(518) 427-9700

**JOHN T. MCMANUS**

DIRECT: (518) 701-2734
FAX: (518) 427-0235
JMCMANUS@HARRISBEACH.COM

April 12, 2019

**VIA CERTIFIED AND ELECTRONIC MAIL**

Mr. John B. Auricchio
Acting Director, Office of Consumer Services
Department of Public Service
90 Church Street
New York, NY 10007

**Re: Case Numbers 941259 and 953952: North Country Data Center Corp's Request for Informal Hearing**

Dear Mr. Auricchio,

We represent North Country Data Center Corp ("NCDCC") in the above-referenced cases, which were generated after NCDCC filed two, separate and independent complaints with the Department of Public Service ("DPS") Office of Consumer Services ("OCS") against its electric service provider, the Plattsburgh Municipal Lighting Department ("PMLD"). More specifically, Case No. 941259 was opened on February 1, 2019, after NCDCC filed a complaint regarding the calculation of and deposit alternative for a security deposit that PLMD demanded from NCDCC (the "Security Deposit Complaint").[1] Case No. 953952 was opened on April 4, 2019, after NCDCC was forced to file a second, unrelated complaint to dispute the unjust and unreasonable invoice it received from PMLD for its February 2019 electric service (the "High Bill Complaint," together with the Security Deposit Complaint, the "Complaints").[2] Less than 24 hours after filing the High Bill Complaint, NCDCC received a letter from OCS staff member David R. LaBombard denying the Complaints (the "Initial Determination").[3] As discussed in detail below, the Initial Determination of the Complaints is plainly erroneous as it disregards the Public Service Law (the "PSL"), DPS's rules and regulations, and known facts. Therefore, NCDCC hereby requests an informal hearing of the Complaints pursuant to 16 NYCRR §§ 12.5 (a) (1) and 13.15 (b).[4]

Before providing the bases of NCDCC's request for an informal hearing of the Initial Determination, NCDCC takes this opportunity to explain its operations in Plattsburgh, New York and relationship with PMLD and the New York Municipal Power Agency ("NYMPA").

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[1] A copy of NCDCC's initial filing commencing the Security Deposit Complaint, PMLD's opposition thereto, and NCDCC's reply to PMLD are enclosed as Exhibit 1.
[2] A copy of NCDCC's initial filing commencing the High Bill complaint is enclosed as Exhibit 2. As of the date of this letter, NCDCC has not been provided with a copy of the opposition that PMLD apparently provided to OCS.
[3] A copy of the Initial Determination, which was issued pursuant to 16 NYCRR § 12.4, is enclosed as Exhibit 3.
[4] Simultaneous with this filing, NCDCC is attempting to coordinate an informal mediation between itself, PMLD, and DPS Staff with the goal of amicably resolving the Complaints. Should mediation result in the resolution of the Complaints, NCDCC will promptly notify OCS and withdraw this informal hearing request.

## I. NCDCC, PMLD, and NYMPA

NCDCC is a wholly-owned subsidiary of Coinmint, LLC ("Coinmint"), which designs, builds, and manages large-scale, secure, and sustainable digital currency data centers. Since 2016, these centers have focused on the production of efficient computational processing power (or hash rate) as well as the creation of digital asset infrastructure—principally in the form of Bitcoin and other leading digital currencies. One of Coinmint's centers, operated by NCDCC, is located at 42 Skyway Plaza, Plattsburgh, New York (the "Facility").[5] Given the nature of Coinmint and NCDCC's business, they are sophisticated buyers of energy throughout the world, including directly from the New York Independent System Operator, Inc. Since opening the Facility in 2017, NCDCC has been remitting payments to PMLD for its electric consumption. PMLD currently treats NCDCC as a "high density load" customer.[6] Since becoming a PMLD customer, NCDCC has paid every electric bill it has received in full and on time.[7] In total, NCDCC has remitted payments in excess of $3.9 million to PMLD for electric service since opening the Facility. In addition, by January 25, 2018, NCDCC had voluntarily provided PMLD with $250,000 in cash security deposits to offset any unfounded concern that NCDCC would leave the Facility without rendering payment in full for its final electric bill.[8]

In turn, PMLD is a member of NYMPA. NYMPA, founded in 1996, is an organization comprised of approximately 35 municipal electric utilities located throughout New York State. NYMPA's municipal members, including PMLD, receive monthly allotments of hydropower from the New York Power Authority ("NYPA"). In the months that the municipal members exceed their hydropower allocation, they must secure supplemental power from the market. Evidently, in an effort to increase the municipal members' market power, NYMPA was created to aggregate its members' supplemental power needs and lower the costs associated with securing supplemental power.[9] Given this structure, if PMLD exceeds its hydropower allotment from NYPA, it purchases its supplemental power from NYMPA. In turn, NYPMA charges PMLD for the supplemental power purchased. Finally, PMLD recovers the cost of these supplemental power purchases through its ratepayers via a vehicle known as the "Purchased Power Adjustment Charges" or the "PPAC."[10] As a result, if PMLD is required to buy

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[5] At the time the Security Deposit Complaint was filed, NCDCC also operated a smaller test facility located at 32 Power Dam Way, Plattsburgh, New York. During the pendency of the Complaints, NCDCC vacated the facility. As a result, this facility and the prior electricity consumption at the site are irrelevant to resolving the Complaints.

[6] *See* NYMPA, Generic Tariff, PSC No. 1 - Electricity, Leaves 95-95 ("Rider A").

[7] With the single exception of NCDCC's February 2019 invoice, which is the subject of the High Bill Complaint.

[8] In accordance with 16 NYCRR § 12.7, NCDCC requests that PMLD provide it documentation to establish compliance with 16 NYCRR § 13.3 (e) with respect to NCDCC's existing cash deposit (*see* 16 NYCRR § 13.3 [e] [stating, for example, that cash deposits "shall accrue interest" at a prescribed rate and that interest "shall be paid to the customer" annually in the event the deposit has been held for a period of one year or more."]).

[9] As a result of these supplemental power purchases, NYMPA and its members are subject to the Public Service Commission's (the "Commission") jurisdiction. Functionally, NYMPA's members operate under NYMPA's generic electric tariff. In addition, each member has its own, system-specific concurrence tariff. PMLD's concurrence electric tariff.

[10] *See e.g.* PMLD, Concurrence Tariff, PSC No. 1 – Electricity, Leaf 15.

supplemental power from NYMPA, PMLD's PPAC to customers will increase to offset that purchase.

## II. The Security Deposit Complaint Was Improperly Denied In Violation Of 16 NYCRR Part 13

### a. Background

Following the issuance of the Commission's *Order Approving Tariff Amendments With Modifications* on March 19, 2018,[11] PMLD contacted NCDCC and demanded that it immediately provide "by check or an irrevocable letter of credit" a security deposit in the amount of $1,019,503.00. Although NCDCC recognized that the Commission's Rider A Order allowed PMLD to request a security deposit from high density load customers such as NCDCC to "protect other customers in the event a [high density load] customer does not pay its final bill,"[12] NCDCC immediately identified flaws with the calculation of the demanded security deposit and the narrow deposit alternatives accepted for providing the same. Most notably, PMLD did not comply with Part 13 of DPS's rules and regulations or its governing tariff, which establish a process for calculating and securing security deposits from existing nonresidential customers like NCDCC, specifically: (1) 16 NYCRR § 13.7 (b) (2), which requires, "in the case of an *existing customer* who has *12 months or more of billing history* [like NDCC]," the amount of a deposit will be "based on service used during the previous 12-month period as evidenced by the billing history;" and (2) 16 NYCRR § 13.7 (d), which requires utilities to "accept deposit alternatives which provide a level of security equivalent to cash, such as irrevocable bank letters of credit *and surety bonds*."[13]

As a result of PMLD's disregard of DPS rules and regulations, NCDCC was forced to file the Security Deposit Complaint with OCS. In its complaint, NCDCC explained that, when following 16 NYCRR § 13.7, NCDCC's security deposit would be valued at $508,374[14] *and* a surety bond would be an explicitly-acceptable deposit alternative. Notwithstanding the clear and controlling language in Part 13 of DPS's rules and regulations, the Initial Determination of the Security Deposit Complaint erroneously concludes that PMLD's calculation of the security deposit amount was "in accordance with the [Rider A Order] and that NCDCC must remit that

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[11] Case 18-E-0126, *Tariff Filing by the New York Municipal Power Agency to Implement a New Rider A - Rates and Charges for High Density Load Service*, Order Approving Tariff Amendments With Modifications (Issued March 19, 2018) (the "Rider A Order").

[12] *Id.* at 8.

[13] 16 NYCRR §§ 13.7 (b) (2), (d) (emphasis added); *see also* NYMPA, Generic Tariff, PSC No. 1 - Electricity, Leaves 23-29 ("These provisions are intended to reflect the requirements of 16 NYCRR §13.7").

[14] After NCDCC vacated the second, smaller test facility in Plattsburgh and NCDCC received its next electric bill for the Facility, NCDCC updated its deposit calculation and provided this revised figure to Mr. LaBombard. The revised deposit amount was $460,959.

deposit in the form of a "check or irrevocable letter of credit" because PMLD's tariff implementing the Rider A Order "limits [deposit] payment to cash or letter of credit."[15]

b. Basis for request for informal hearing

In the first instance, the Initial Determination on the Security Deposit Complaint must be overturned because it ignores the unambiguous declaration at the beginning of Part 13, which reads: "Notwithstanding *any other commission rules or orders to the contrary*, this Part governs the rights, duties and obligations of every . . . municipality subject to the jurisdiction of the commission . . . [and] their nonresidential customers."[16] In other words, the Commission would need to engage in what is known as "hard rulemaking" under the Section 102 (2) (a) (i) of the State Administrative Procedures Act ("SAPA") if it wants to codify a new or amend an existing DPS rule or regulation in Part 13.[17] As a result of this prefatory language and as relevant to the Security Deposit Complaint, the Commission would have had to issue a hard rule under SAPA if it wanted to amend 16 NYCRR Part 13 to modify the methodology for calculating a security deposit or narrow the list of accepted deposit alternatives. The Rider A Order is *not* a hard rule under SAPA.[18] As such, neither the Rider A Order nor the resulting Rider A can supplant or invalidate 16 NYCRR Part 13's plain and unambiguous requirements concerning the calculation and form of the security deposit, which must, and can readily, be applied here. Thus, the Initial Determination must be overturned because it purported to rely on the Rider A Order in imposing a security deposit nearly two-times higher than what is authorized under Part 13 and precluding the use of a surety bond as an acceptable deposit alternative.

Second, the Initial Determination should be overturned because its calculation of the proper security deposit amount—apparently conducted in an effort to "check" PMLD's deposit demand figure—also violated Part 13. As discussed above, one aspect of PMLD's electric invoices is the PPAC charge. This charge varies month-to-month and is highest during the winter season if PMLD exceeds its hydropower allotment. As relevant to the Security Deposit Complaint, instead of calculating the deposit amount using NCDCC's known 12-month historical average, which would have factored in the average PPAC charged over that time, the Initial Determination arbitrarily imposed the "current PPAC" to determine NCDCC's average monthly bill amount to forecast the two-month deposit amount. This violates 16 NYCRR § 13.7

[15] Exhibit 3.
[16] 16 NYCRR § 13.1 (a) (emphasis added).
[17] *See* Case 15-E-0302, *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard*, Order of Petitions for Rehearing (Issued Dec. 15, 2016), at 18-19 (explaining the procedure related to hard rulemaking). If, in contrast, the Commission does not want to issue a rule to be codified in the DPS's rules and regulations, it can issue what is known as a "soft rule" pursuant to SAPA §102 (2) (a) (ii).
[18] The Rider A Order was noticed by the Secretary of State in the *State Register* as "within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act" (*i.e.*, as a "soft" rule) (New York State Register, ID No. PSC-14-18-00001-EP [Issued April 4, 2018], at 9-10). Similarly, the notice of adoption of the Rider A Order reiterated that it was adopted as a soft rule pursuant to SAPA § 102 (2) (a) (ii) (*see* New York State Register, ID No. PSC-14-18-00001-A [Issued July 3, 2018], at 18). As such, the Rider A Order was issued as a soft rule and, by law and consistent with section 13.1 (a), cannot modify an existing section of or codify a new section in 16 NYCRR Part 13.

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(b) (2) because it does not rely upon known, historical data to calculate the deposit and is punitive. In the nearly three-year period that NCDCC has been PMLD's customer, the PPAC has never been as high as it is currently.[19] In fact, the current PPAC is *more than triple* the average PPAC charged to NCDCC since it became a customer in 2017.[20] As a result, the Initial Determination's deposit calculation—just like PMLD's—is artificially inflated in violation of Part 13[21] and must be rejected.[22]

Finally, the Initial Determination should be overturned because it improperly concluded that the Rider A Order limits the acceptable security deposit vehicles to "cash or a letter of credit." Simply stated, the Commission *never* stated that existing high-density load customers must remit all newly-required deposits in either only cash or a letter of credit. In fact, the term "cash" is *never* used in the Rider A Order or the resulting tariff leaf.[23] Similarly, neither the Rider A Order nor the resulting tariff provisions preclude PMLD from accepting a surety bond as a security deposit.[24] Instead, the Commission merely allowed certain utilities to require a "*deposit*/letter of credit" from high-density load customers. Indeed, the Commission's use of the specific term "deposit" is important because it is the defined term used in 16 NYCRR § 13.7, which governs this dispute and requires that PMLD accept NCDCC's security deposit in the form of a surety bond.[25]

## III. The High Bill Complaint Was Improperly Denied In Violation of 16 NYCRR Part 12 and PSL § 65

### a. <u>Background</u>

In March 2019, NCDCC received its invoice from PMLD for the electricity consumed at the Facility during the February billing cycle (the "February Bill"). Though NCDCC's usage during the relevant billing cycle was standard, the total invoice amount was *more than $90,000* more than the Facility's 12-month average invoice.[26] Upon conducting further investigation,

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[19] *See* Exhibit 2.
[20] *Id*.
[21] Importantly, if it turns out that the historic average PPAC figure captured by NCDCC's billing history is too low because, in the future, the PPAC is measurably higher than it has been in the past, PMLD is amply protected by Part 13, which allows utilities to revisit and, if needed, increase deposit amounts (*see* 16 NYCRR § 13.3 [c] [allowing a utility "review a deposit at any time" and increase the amount if the "deposit held falls short of the amount that the utility may lawfully require"]).
[22] Additionally, the Initial Determination should be overturned because it upheld PMLD's deposit calculation even though PMLD's deposit was *over $100,000 higher* than Initial Determination's calculation (*see* Exhibit 3 [showing Initial Determination's calculation of a $915,135 security deposit]). The Initial Determination did not provide any explanation for ignoring this calculation and instead arbitrarily and capriciously adopting PMLD's deposit amount, notwithstanding the over $100,000 difference between PMLD's calculation and the Initial Determination's calculation.
[23] *See generally* Rider A Order; Rider A.
[24] *See generally id*.
[25] *See* 16 NYCRR § 13.7 (d).
[26] A copy of the February Invoice is included in Exhibit 2.

NCDCC determined that PMLD charged NCDCC $0.053/kWh for electricity on the February bill—more than 1.7 times the market rate for electricity during that period.[27] Given its knowledge of the New York energy market, NCDCC immediately had concerns about the difference between the market rate for electricity and the rate for electricity that PMLD charged NCDCC and potentially other customers.

Due to these concerns, NCDCC remitted the undisputed portion of the February Bill ($182,723.59) to PMLD and withheld the disputed amount pending an explanation for the unreasonably high charges. After remitting partial payment for the February Bill, NCDCC promptly contacted PMLD to request the information necessary to determine why PMLD's cost of electricity was so high during the February billing cycle. For example, NCDCC requested a copy of NYMPA's bill to PMLD to determine whether NYMPA charged PMLD for supplemental power purchases and, if so, what was the cost of that supplemental power. PMLD summarily denied this request and sent NCDCC a termination notice, which necessitated the filing of the High Bill Complaint to avoid service termination while this dispute is resolved. Shockingly, *less than 24 hours* after filing this detailed complaint, which notably requested a Staff-led mediation session to determine exactly what the cause of the high February bill was, the Initial Determination denied the complaint in a single, 4-sentence, conclusory paragraph that reads:

> [The High Bill Complaint] filed on April 4, 2019 raised concerns about billing of the two accounts by PMLD. Based on the information provided by PMLD, Staff finds that your client's concerns are unfounded and the billing of the two NCDCC accounts is accurate and the charges applied to the accounts are valid. No adjustments are warranted. The balances of the accounts are NCDCC's responsibility to pay.[28]

b. <u>Basis for request for informal hearing</u>

The Initial Determination on the High Bill Complaint must be overturned for several reasons. First, the Initial Determination failed to follow DPS's rules and regulations regarding the review of a complaint. Second, the Initial Determination misapprehended the facts underlying the High Bill Complaint. Finally, the Initial Determination did not analyze the issue raised—whether the February Bill was just and reasonable as required by the PSL.

Part 12 of the DPS rules and regulations, which governs the complaint process for residential and nonresidential accounts, requires OCS staff to "investigate each complaint" and to make an initial determination "on the complaint, based on his or her findings, applicable State laws, commission rules, regulations, orders and opinions, and utility tariffs."[29] It is unlikely that,

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[27] *See* Exhibit 2.
[28] Exhibit 3.
[29] 16 NYCRR §§ 12.1 (e), 12.4 (a).

in less than one business day, OCS thoroughly investigated whether the charges passed on to NCDCC from PMLD were just and reasonable in satisfaction of PSL § 65. Moreover, it is impossible that, in less than one business day, OCS could have reviewed all applicable laws, rules, regulations, orders, opinions, and tariffs implicated by the High Bill Complaint. For example, despite the fact that the High Bill Complaint outlines how there is no established process in NYMPA's or PMLD's tariff to set the supplemental cost of power NYMPA charges to PMLD, which could result in PMLD paying onerously high supplemental power charges to NYMPA and, in turn, passing those unjust and unreasonable charges along to its customer, OCS did not address the process for determining the supplemental cost of power PMLD's ratepayers are required to pay or how those charges are incorporated into the PPAC. As such, the Initial Determination on the High Bill Complaint clearly violates Part 12 of DPS's rules and regulations.

This violation is further demonstrated on the face of the Initial Determination regarding the High Bill Complaint. The single paragraph of the Initial Determination devoted to this complicated issue states, on several occasions, that the High Bill Complaint raises concerns about *two* electric accounts NCDCC holds with PMLD. This is not true. The High Bill Complaint is limited to the February Invoice, which is associated with the Facility. The High Bill Complaint does not, even once, mention another property or another invoice. OCS's rushed decision on this complaint is evidenced by this fundamental misunderstanding of the High Bill Complaint. As a result, NCDCC respectfully requests that the Initial Determination on this issue be overturned as it was rendered in violation of 16 NYCRR Part 12.

Additionally, OCS improperly disregarding PSL § 65 when it rendered the Initial Determination. Section 65 mandates that all "charges made or demanded" by a gas corporation, electric corporation, or municipality "for gas, electricity or any service rendered or to be rendered . . . be *just and reasonable* and not more than allowed by law or by order of the commission."[30] On its face, charging a customer more than 1.7 times the market rate for electricity is unjust and unreasonable in violation of PSL § 65. Notwithstanding the glaring discrepancy between the market rate for power and PMLD's rate for power during the February billing cycle, the Initial Determination incorrectly states, without any support or analysis, that the High Bill Complaint was "unfounded" and the billing was "accurate." As a result, the Initial Determination on this complaint should be overturned.

In order to facility the proper review of the High Bill Complaint by an informal hearing officer, NCDCC renews the following information requests of PMLD in accordance with 16 NYCRR §§ 12.7 (a) (2) and (6) and 12.8 (a) (1):

1. All documents, records, communications, meeting minutes, internal memorandums, or voting ledgers in PMLD's and NYMPA's possession from 2015 (the year before NCDCC

[30] PSL § 65 (1) (emphasis added).

became a PMLD customer) to the current date reflecting how NYMPA sets its supplemental cost of power.

2. All invoices from NYMPA to PMLD and all supporting documentation in PMLD's and NYMPA's possession from 2015 to the current date, including all of the NYISO invoices, transmission charges, usage records of NYMPA.

3. All documents and correspondence in the complaint files, including, but not limited to documents and correspondence sent from PMLD to the Office of Consumer Services, or Department of Public Service Staff more generally, pertaining to NCDCC's two underlying complaints.

These information requests are directly related to the High Bill Complaint and are relevant to its resolution. More specifically, the High Bill Complaint challenges the cost of supplemental power PMLD charges to NCDCC. Recognizing that PMLD purchases its supplemental power directly from NYMPA, it is relevant and appropriate for PMLD to disclose any and all information regarding how NYMPA sets the supplemental cost of power it charges to PMLD and how PMLD agrees to be bound by that price—especially when that price is measurably higher than the market rate for power. This information is critical to the resolution of these complaints and NCDCC is entitled to the same.

## IV. Conclusion

For the reasons set forth above, NCDCC respectfully requests that, following the requested informal hearing and the hearing officer's consideration of the statements made by the parties and review of the relevant information in the complaint files, the hearing officer overturn the Initial Determination in its entirety.

Very truly yours,

s/ *John T. McManus*

John T. McManus

Enclosures

cc: Bruce Alch, Department of Public Service (*via electronic mail*)
Konstantin Podolny, Esq., PMLD (*via electronic mail*)

# Exhibit 6

**APPEAL TO THE NEW YORK STATE**
**PUBLIC SERVICE COMMISSION**

Case Numbers: 941259 and 953952

# RULE MAKING ACTIVITIES

Each rule making is identified by an I.D. No., which consists of 13 characters. For example, the I.D. No. AAM-01-96-00001-E indicates the following:

| | |
|---|---|
| AAM | -the abbreviation to identify the adopting agency |
| 01 | -the *State Register* issue number |
| 96 | -the year |
| 00001 | -the Department of State number, assigned upon receipt of notice. |
| E | -Emergency Rule Making—permanent action not intended (This character could also be: A for Adoption; P for Proposed Rule Making; RP for Revised Rule Making; EP for a combined Emergency and Proposed Rule Making; EA for an Emergency Rule Making that is permanent and does not expire 90 days after filing.) |

Italics contained in text denote new material. Brackets indicate material to be deleted.

## Office of Children and Family Services

### EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

**Group Size and Supervision Ratios in Legally-Exempt Child Care Settings and Legally-Exempt Group Child Care Financial Incentives**

**I.D. No.** CFS-14-18-00003-EP

**Filing No.** 271

**Filing Date:** 2018-03-20

**Effective Date:** 2018-04-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Proposed Action:*** Amendment of sections 415.4 and 415.9 of Title 18 NYCRR.

***Statutory authority:*** Social Services Law, sections 20(3)(d), 34(3)(f), 410(1) and 410-x(3)

***Finding of necessity for emergency rule:*** Preservation of public health, public safety and general welfare.

***Specific reasons underlying the finding of necessity:*** The Office of Children and Family Services (the Office) has determined that immediate adoption of these regulations on an emergency basis is necessary to better protect the health, safety and welfare of children in legally-exempt group child care settings throughout New York State and to comply with the Child Care and Development Block Grant Act of 2014 (CCDBG). These emergency regulations will set forth standards for group size and supervision ratios in legally-exempt group child care settings and offer caregivers of legally-exempt group child care financial incentives to develop health care plans, have cardiopulmonary resuscitation (CPR) certified caregivers onsite and for caregivers in these settings to have received additional annual training.

CCDBG Section 658E(c)(2)(H) requires states to develop appropriate child to provider ratios that address group size, limits for specific age populations and the appropriate ratio between the number of children and number of providers in terms of the age of children. Currently, there are no regulatory standards for staff to child supervision ratios and maximum group size requirements for legally-exempt group child care providers, other than local building codes. The Office was granted a waiver from the United States Department of Health and Human Services Administration for Children and Families with respect to these requirements until September 30, 2017. The Office requested an extension of this waiver on August 31, 2017 and has received no official response.

Incentivizing the development of health care plans, having CPR certified employees on site and additional training caregivers of legally-exempt group child care will further enhance the health, safety and welfare of children served in these settings.

***Subject:*** Group size and supervision ratios in legally-exempt child care settings and legally-exempt group child care financial incentives.

***Purpose:*** To establish group size and supervision ratios in legally-exempt child care settings and financial incentives.

***Text of emergency/proposed rule:*** Subdivision (f) of section 415.4 of 18 NYCRR is amended to add a new paragraph (9) to read as follows:

*(9) Additional health and safety requirements for caregivers of legally-exempt group child care.*

*(i) Each enrolled legally-exempt group child care program must meet and maintain the following minimum staff-to-child supervision ratios and maximum group size requirements, unless a more stringent standard is required by law:*

*(a) for three-year-old children:*

*(1) there must be one employee with a caregiving role for every 20 children when engaged in activities where children will be seated while working on a particular activity or skill;*

*(2) there must be one employee with a caregiving role for every 10 children when children are not engaged in seated activities or skills; and*

*(3) the maximum group size is 30 children.*

*(b) for four-year-old children:*

*(1) there must be one employee with a caregiving role for every 20 children when engaged in activities where children will be seated while working on a particular activity or skill;*

*(2) there must be one employee with a caregiving role for every 12 children when children are not engaged in seated activities or skills; and*

*(3) the maximum group size is 36 children.*

*(c) for children ages five through 12 years of age:*

*(1) there must be one employee with a caregiving role for every 25 children; and*

*(2) the maximum group size is 50 children.*

*(d) When children younger than five years of age are cared for in mixed age groups, the staff-to-child supervision ratio and maximum group size applicable to the youngest child in the group must be followed.*

*(ii) Group size refers to the number of children cared for together as a unit. Group size is used to determine the minimum staff-to-child supervision ratio based upon the age of the children in the group.*

*(iii) The office and its designees, applicable social services district and its designees, and the applicable legally-exempt caregiver enrollment agency are authorized to inspect any legally-exempt group child care program that is enrolled or applying for enrollment.*

*(iv) Child care assistance cannot be authorized for a child under*

*three years of age for child care provided in a legally-exempt group child care program, except for:*

*(a) child care programs located on Federal property which are operated in compliance with the applicable Federal laws and regulations for such child care programs;*

*(b) child care programs located on tribal property which are operated in compliance with the applicable tribal laws and regulations for such child care programs; or*

*(c) a child who is at least two years of age at the beginning of the school year but will turn three years of age on or before the applicable calendar date for which a child must be at least five years of age to be eligible for admission to school; such a child shall be considered three years of age for the purposes of staff-to-child ratio and maximum group size.*

Subdivision (i) of section 415.9 of 18 NYCRR is amended to read as follows:

(i) *There may be multiple market rates for legally-exempt group child care, the standard market rate, and the opportunity for an enhanced market rate as provided in this subdivision.*

*(1)* The *standard market* rate of payment for caregivers of legally-exempt group child care is the actual cost of care up to 75 percent of the applicable market rate for day care center providers as set forth in this section.

*(2) A social services district may establish one or both of the following categories of enhanced rates for child care services provided by legally-exempt group child care programs:*

*(i) A social services district may establish an enhanced market rate for child care services provided by eligible legally-exempt group child care programs up to 81 percent of the applicable market rate for day care center providers if:*

*(a) the program prepares a health care plan that meets the specifications of paragraph (2) of subdivision (c) of section 418-1.11 of this Title; and*

*(b) the program has at least one employee with a caregiving role in each classroom during the program's operating hours who holds a valid certificate in cardio-pulmonary resuscitation (CPR), appropriate to the ages of the children in the classroom.*

*(ii) A social services district may establish an enhanced market rate for child care services provided by eligible legally-exempt group child care programs up to 81 percent of the applicable market rate for day care center providers, if:*

*(a) the caregiver of the legally-exempt group child care program completes the Health and Safety: Competencies in Child Care for Day Care Center, School-Age Child Care, and Enrolled Legally Exempt Group Program Directors course or other course as approved by the office, and a minimum of 15 fifteen hours of training annually in areas approved by the office; and*

*(b) each employee with a caregiving role at the legally-exempt group child care program completes a minimum of five hours of training annually in the areas approved by the office, in addition to the training required by subdivision (f) of section 415.4 of this part.*

*(3) When a social services district establishes an enhanced market rate for child care services provided by eligible legally-exempt group child care programs in accordance with subparagraphs (i) and (ii) of paragraph (2) of this subdivision, the district may pay up to 87 percent of the applicable market rate for day care centers when all requirements of both subparagraphs are met.*

*(4) An enhanced market rate established pursuant to this subdivision will only be available to those legally-exempt group child care programs that have submitted documentation to the applicable legally-exempt caregiver enrollment agency verifying compliance with:*

*(i) the requirements set forth in this subdivision required to qualify for the enhanced rate; and;*

*(ii) all applicable health and safety requirements set forth in subdivision (f) of section 415.4 of this part.*

*(5) The applicable social services district and its designees, or applicable legally-exempt caregiver enrollment agency shall inspect any legally-exempt group child care program that requests or receives an enhanced market rate pursuant to this subdivision.*

*(6) The social services district must indicate in the district's consolidated services plan or integrated county plan the percentage and category of any enhanced market rate it will provide for child care services provided by eligible legally-exempt group child care programs.*

*(7) A legally-exempt group child care program may receive an enhanced market rate pursuant to this subdivision and one or more differential rates pursuant to this section, provided however, that the total payment made to a legally-exempt group child care program must not exceed either 100 percent of the applicable market rate for day care centers as set forth in this section, or the actual cost of care, whichever is less.*

***This notice is intended:*** to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire June 17, 2018.

***Text of rule and any required statements and analyses may be obtained from:*** Leslie Robinson, Senior Attorney, Office of Children and Family Services, 52 Washington Street, Rensselaer, New York 12144, (518) 474-3333, email: regcomments@ocfs.ny.gov

***Data, views or arguments may be submitted to:*** Same as above.

***Public comment will be received until:*** 60 days after publication of this notice.

***Regulatory Impact Statement***

1. Statutory authority:

Section 20(3)(d) of the Social Services Law (SSL) authorizes the Commissioner of the Office of Children and Family Services (the Office) to establish rules, regulations, and policies to carry out the Office's powers and duties under the SSL.

Section 34(3)(f) of the SSL authorizes the Commissioner of the Office to establish regulations for the administration of public assistance and care within the State.

Section 410(1) of the SSL authorizes a social services official of a county, city or town to provide day care for children at public expense and authorizes the Office to establish criteria for when such day care is to be provided.

Section 410-x(3) of the SSL requires the Office to establish in regulation minimum health and safety standards that must be met by child care providers, funded under the New York State Child Care Block Grant, not required to be licensed or registered under section 390 of the SSL or to be permitted under the administrative code of the City of New York.

The federal Child Care and Development Block Grant Act (CCDBG) Section 658E(c)(2)(H) requires states to develop appropriate child to provider ratios that address group size, limits for specific age populations and the appropriate ratio between the number of children and number of providers in terms of the age of children.

2. Legislative objectives:

The Office's objective with this rule making is to comply with federal law and enhance the health, safety and welfare of children in legally-exempt group child care throughout New York State. These regulations support the underlying objectives of sections 410-x(3) of the SSL to protect the health, safety and welfare of children in child care settings.

3. Needs and benefits:

These regulations set forth standards for group size and supervision ratios in legally-exempt group child care setting and offer caregivers of legally-exempt group child care financial incentives to have cardiopulmonary resuscitation (CPR) trained employees onsite, develop and maintain a health care plan for the program and for caregivers of children to undertake additional annual training.

These regulations are needed on an emergency basis for compliance with federal law and to promote the quality of care provided to children in legally-exempt group child care settings and improve the health, safety and welfare of children in such settings.

CCDBG Section 658E(c)(2)(H) requires states to develop appropriate child to provider ratios that address group size, limits for specific age populations and the appropriate ratio between the number of children and number of providers in terms of the age of children receiving subsidized care. Currently, there are no regulatory standards for staff to child supervision ratios and maximum group size requirements for legally-exempt group child care providers, other than local building codes. The Office was granted a waiver by the federal Administration for Children and Families with respect to these requirements until September 30, 2017. The Office requested an extension of this waiver on August 31, 2017 and has received no official response.

Moreover, allowing caregivers legally-exempt group child care to earn enhanced payment rates in exchange for having CPR trained caregivers onsite, developing and maintain a health care plan for the program and for caregivers of children to undertake additional annual training promotes the health, safety and well-being of children being cared for in legally-exempt group settings.

4. Costs:

Prior to developing the proposed group size and ratio standard, the Office collected extensive stakeholder input and developed the standards in a way to minimize a detrimental impact on access to child care and avoid undue costs to caregivers of legally-exempt group child care. The supervision ratios prescribed are largely based on Article 43 of the New York City Health Code. A large number of caregivers of legally-exempt group child care are already required to comply with the supervision ratios, therefore the Office is not anticipating additional costs for those caregivers.

5. Local government mandates:

The emergency regulations impose no new mandates on local governments.

6. Paperwork:
Caregivers of legally-exempt group child care will have to keep a record of compliance with the new training standards to qualify for the enhanced payment rates, as they are required to do with the current training standards.
7. Duplication:
The new requirements do not duplicate any existing State or federal requirements.
8. Federal standards:
The regulations are consistent with CCDBG, which requires the Office to establish supervision ratios and set maximum group sizes.
9. Compliance schedule:
The regulations are effective on April 16, 2018, as the federal requirement is already in effect, and New York may be penalized if it cannot demonstrate compliance with the requirements of CCDBG.
10. Alternative approaches:
No alternative approaches were considered.

***Regulatory Flexibility Analysis***

1. Effect on small businesses and local governments:
It is anticipated that the groups size and supervision ratio requirements will have a minimal impact, if any on small business and local governments.
Prior to developing the proposed group size and supervision ratio standards, the Office of Children and Family Services (the Office) collected extensive stakeholder input and developed the standards in a way to minimize a detrimental impact on access to child care and avoid undue costs to legally-exempt group child care providers that are small businesses.
The Office does not expect this rulemaking to have a detrimental impact on local governments with respect to the enhanced payment rates because the option to award the enhanced payment rates is permissive for local governments.
2. Compliance requirements:
Caregivers of legally-exempt group child care will be required to adhere to the group-size supervision ratios set forth in the emergency regulations. In order to qualify for an enhanced payment rate, caregivers of legally-exempt group child care will be required to undertake additional health and safety measures as provided for in the rule.
3. Professional services:
No new professional services are required by small businesses or local governments to comply with this change.
4. Compliance costs:
It is expected that there will be minimal costs, if any, associated with compliance with these rules. Prior to developing the proposed group size and supervision ratio standards, the Office collected extensive stakeholder input and developed the standards in a way to minimize a detrimental impact on access to child care and avoid undue costs to small businesses.
The option to award the enhanced payment rates is permissive for local governments and therefore does not mandate new costs.
5. Economic and technological feasibility:
No new economic or technology requirements for small business or local governments are expected.
6. Minimizing adverse impact:
This regulatory change is not expected to have an adverse impact on small business or local governments.
7. Small business and local government participation:
In the development of the 2016-2018 Child Care and Development Fund Plan, the Office held three regional public hearings, in which requirements were presented to child day care providers and local social services districts and input was gathered. Additionally, the Office collected stakeholder input in developing the group size and staff to child ratio requirements that this rule creates.

***Rural Area Flexibility Analysis***

1. Types and estimated numbers of rural areas:
The emergency regulations will potentially affect caregivers of legally-exempt group child care in all 44 rural areas of the State.
2. Reporting, recordkeeping, and other compliance requirements and professional services:
Caregivers of legally-exempt group child care will be required to adhere to the group size limitations and supervision ratios set forth in the emergency regulations. In order to qualify for the enhanced rate payments, caregivers of legally-exempt group child care will be required to maintain documentation of a health care plan, cardio-pulmonary resuscitation training certification and additional training requirements.
3. Costs:
Prior to developing the proposed group size and supervision ratio standards, the Office of Children and Family Services (the Office) collected stakeholder input and developed the standards in a way to minimize a detrimental impact on access to child care and avoid undue costs to caregivers of legally-exempt group child care.
4. Minimizing adverse impacts:
Prior to developing the proposed group size and supervision ratio standards, the Office collected extensive stakeholder input and developed the standards in a way to minimize a detrimental impact on access to child care and avoid undue costs to caregivers of legally-exempt group child care.
5. Rural area participation:
In the development of the 2016-2018 Child Care and Development Fund Plan, the Office held three regional public hearings, in which the federal training requirements were presented to child day care providers and local social services districts.

***Job Impact Statement***

Section 201-a of the State Administrative Procedures Act requires a job impact statement to be filed if proposed regulations will have an adverse impact on jobs and employment opportunities in the State.
It is not anticipated the regulations will have a significantly detrimental impact on jobs and employment opportunities for caregivers of legally-exempt group child care. The regulations are designed to provide for the health, safety and welfare of children in care and to comply with federal law.

# Department of Environmental Conservation

## REVISED RULE MAKING
## NO HEARING(S) SCHEDULED

**Revisions to the Regulations that Implement the State Environmental Quality Review Act**

**I.D. No.** ENV-06-17-00001-RP

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following revised rule:

***Proposed Action:*** Amendment of Part 617 of Title 6 NYCRR.

***Statutory authority:*** Environmental Conservation Law, section 8-0113

***Subject:*** Revisions to the regulations that implement the State Environmental Quality Review Act.

***Purpose:*** Updating the regulations that implement the State Environmental Quality Review Act.

***Substance of revised rule (Full text is posted at the following State website: http://www.dec.ny.gov/permits/83389.html):*** The 2017 proposed amendments to the State Environmental Quality Review Act (SEQR) regulations, as revised in March 2018, would serve to help modernize the SEQR process. The amendments are the Department's first significant update to the SEQR regulations since 1995. They are among the steps that the Department has taken to modernize the SEQR process that includes the new environmental assessment forms along with the creation of workbooks and a spatial data platform on DEC's website (EAF Mapper). The Department's proposed changes reduce the number of minor projects and routine governmental decisions that are subject to SEQR by adding them to the statewide list of actions that are exempt from further review under SEQR ("Type II list of actions"). Some examples of new Type II actions include the following: Retrofitting of a structure to incorporate green infrastructure practices; installation of solar energy arrays on sanitary landfills and other sites; certain acquisitions and dedication of parkland; transfers of land for one, two and three family housing; and construction and operation of an anaerobic digester at a municipal solid waste landfill. The amendments would also modify certain thresholds in the Type I list of actions (actions deemed more likely to require the preparation of an environmental impact statement (EIS) (see 6 NYCRR 617.4); make scoping of environmental impact statements (EISs) mandatory (scoping is now optional) except for supplements to EISs; and more precisely define and tighten the acceptance procedures for draft EISs. The Department is also proposing an amendment to section 617.10 of 6 NYCRR (generic environmental impact statements or "GEIS") that would clarify the ability of a lead agency to deny an action for which it has prepared a GEIS. Finally, the Department is proposing rules to implement the statutory EIS on the web requirement (Chapter 641 of the Laws of 2005) along with a number of other changes to encourage the electronic filing of EISs (see Express Terms, 6 NYCRR section 617.12) and changes to 617.13 to add greater transparency to consulting costs when a lead agency engages private consulting firms and charges the costs back to project sponsors.

This rulemaking was proposed on February 8, 2017 in the New York State Register. The Department is now issuing a notice of revised rulemaking. Revisions to the proposal are summarized in the Summary of Assessment of Public Comment and specifically identified in the revised draft generic environmental impact statement or "R-DGEIS" posted on the Department's website at the following address: http://www.dec.ny.gov/permits/83389.html. The Department is seeking comments on the revisions noted.

Also, the Department has modified the environmental assessment forms (6 NYCRR § 617.20, appendices A and B) so they reflect the changes proposed for the Type I list of actions and properties located substantially contiguous to properties listed on the National or State registers of historic places as well as properties determined to be eligible for listing on the State Register of Historic Places. The forms also contain some additional minor changes and corrections.

The full text of the revised amendments is posted on the Department's website at http://www.dec.ny.gov/permits/83389.html. The Department has also prepared (and posted on its website in the same location) a Revised DGEIS or "R-DGEIS" that, among other things, assesses the impact of the proposal and revisions on the environment. The revised DGEIS is combined with the regulatory impact statements required by the State Administrative Procedure Act.

***Revised rule compared with proposed rule:*** Substantial revisions were made in sections 617.2, 617.5, 617.6, 617.8, 617.9 and 617.20.

***Text of revised proposed rule and any required statements and analyses may be obtained from*** James Eldred, Environmental Analyst, Division of Environmental Permits, Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-1750, (518) 402-9167, email: SEQR617@dec.ny.gov

***Data, views or arguments may be submitted to:*** Same as above.

***Public comment will be received until:*** 30 days after publication of this notice.

***Summary of Revised Regulatory Impact Statement (Full text is posted at the following State website: http://www.dec.ny.gov/permits/83389.html):***

The Department's statutory authority to amend Part 617 is in Environmental Conservation Law (ECL) § 8-0113, which authorizes the Department, through the Commissioner, to adopt rules and regulations to implement the State Environmental Quality Review Act (SEQR).

The purpose of the proposed amendments to Part 617 is to modernize and improve the SEQR process without sacrificing meaningful environmental review. The proposed changes build on regulatory changes from past SEQR rulemakings, namely the 1995 amendments (effective January 1, 1996) to the SEQR regulations (which supplemented the Type II list and established a more detailed scoping process for environmental impact statements, among other changes) and on the rulemaking that updated the environmental assessment forms and implemented the new electronic forms, which became effective on October 7, 2013.

The last major amendments to the SEQR regulations occurred over two decades ago. This rule making is intended to update the SEQR regulations with additional Type II actions, i.e., adding more actions to the list of actions not subject to further review under SEQR, and with other important changes more fully described in the express terms and accompanying environmental impact statement.

The Department has also proposed a provision to clarify that an environmental impact statement, where relevant, should include a discussion of measures to avoid or reduce both an action's environmental impacts and vulnerability from the effects of climate change such as sea level rise and flooding.

The accompanying "revised draft environmental impact statement" or "R-DGEIS" contains a specific discussion of objectives and benefits for each proposed change to the SEQR regulations.

Because SEQR is a law that requires compliance by government agencies, any effect on the regulated public is indirect. Further, in most cases, the proposals, if adopted, would arguably reduce costs through the creation of additional Type II actions and further streamlining of the EIS process. This is the agency's overall best estimate; however, the economic impact of the amendments to SEQR is impossible to quantify.

Except for the small change to the Type I rule (which lowers the thresholds for when a residential subdivision would classified as a Type I action) and the proposed change to section 617.9 (regarding sea level rise and storm-impact analysis), the changes streamline the regulations, which reduces costs to regulated parties. For example, the additional Type II actions would no longer be subject to review under SEQR. Mandatory scoping will help insure that environmental issues are considered early on rather than at the end of the process after a project sponsor has already spent large sums of money on moving an application forward. On the other hand, reducing the thresholds for Type I actions and subdivisions may arguably raise costs for subdivision applicants, though there is no way to measure the effect since some of the subdivisions effected by the new proposed rule would be Type I on account of other thresholds and the Type I requirement for coordinated review results in more efficiency of review (which arguably has the effect of reducing costs). The proposed rules in section 617.9 related to sea level rise and flooding may arguably increase costs for some project sponsors of developments that are located in coastal and other flood prone areas where the project requires preparation of an environmental impact statement. The additional costs would be to assess, avoid or mitigate the impacts that may come about from sea level rise or flooding — which as recent storm events show would be a cost-saver in the life cycle of the project and to governmental responders should a major storm event impact the project.

State and local agencies may decrease their costs (as would project sponsors) where the action involves one of the proposed Type II actions (actions not subject to review under SEQR). State and local governments may incur additional costs on account of mandatory scoping, though the Department in response to public comment has excepted supplemental EISs from the mandatory scoping requirement. This cost of mandatory scoping is difficult to measure, however, since scoping can decrease costs later in the process by insuring that environmental issues are articulated at an early stage in project review. The requirement was proposed as a response to the wish of the regulated community that there should be more certainty in the process.

Costs to the Department mainly involve staff time and resources to promulgate these regulations and then to conduct training on them. The Department already conducts scoping on most EISs where it is lead agency. As with most regulatory amendments there will be some cost in retraining people in the SEQR process as a result of this rulemaking. The cost here is short term and minimal. The Department has maintained a training and assistance program for those interested in receiving training and those who have specific questions relating to implementation of the law. This amendment would require that some additional staff time be devoted to training but it would be a relatively small change from currently existing efforts.

There are no additional programs, services, duties or responsibilities imposed by the rule upon any county, city, town, village, school district, fire district or other special district except to require mandatory scoping of all environmental impact statements (where it is now optional). Statistically, there are very few environmental impact statements compared to actions that receive a negative declaration. The proposed regulations otherwise reduce mandates by adding to the number of Type II actions (which are not subject to further review under SEQR). The expansion of the Type II provision for lot line adjustments (sometimes treated as a subdivision or variance) would most likely reduce the regulatory workload of zoning and planning boards. The requirement to look at sea level rise and flooding in a proper case is, at best, a minor mandate compared to the consequences of not doing so.

With the addition of items to the list of Type II actions there will be a reduction in the need for applicants and lead agencies to complete environmental review forms. (It should be noted, however, that in 2013 the forms became electronic with links to GIS and are now quicker and easier to complete than before). The amendments may, however, result in lead agencies having to prepare more scoping documents because scoping would be mandatory under the proposed new rules. Nonetheless, scoping is only applicable where an environmental impact statement is required and only in a small percentage of actions is an environmental impact statement required. Scoping is, however, a long term time saver in that it allows for early identification of issues. There are no new or additional recordkeeping requirements of a regulated party. An additional requirement is imposed for internet posting of draft scopes.

There is no duplication of other state or federal requirements. With some of the Type II additions, the regulations are intended to reduce duplication of SEQR review requirements with those carried out under State land use enabling laws (e.g., reuse of existing buildings).

The time necessary to comply with the Part 617 regulatory amendments is not substantial. Training will be necessary for those unfamiliar with SEQR but for those familiar with the current regulations the amendments should be easily understood and implemented. Any particular questions will be answered by the Department in its assistance role to state and local agencies and to the regulated public. The Department does anticipate conducting general training on these amendments for those who may want to participate, which would include in person and the preparation of web-based training materials. Compliance is required on the effective date of the regulation. The Department proposes that the amendments should take effect approximately six months from the date their adoption is noticed in the New York State Register. This postponement in the effective date is expected to allow for the Department to conduct training and produce explanatory materials before the rule takes effect.

***Summary of Revised Regulatory Flexibility Analysis (Full text is posted at the following State website: http://www.dec.ny.gov/permits/83389.html):***

Presently, any proposal, whether made by a business or local government, that involves a discretionary decision by a government agency and that may affect the environment, is subject to an assessment under the State Environmental Quality Review Act (SEQR) — to determine whether it may have a significant impact on the environment, and, if so, the lead agency must prepare an environmental impact statement. An exception lies where that action or project has been categorically determined not to be subject to environmental review (6 NYCRR 617.5[c]). The rulemaking effects all local governments (as they are required to comply with SEQR when approving or undertaking an action), and many small businesses, to the extent they may seek approvals or governmental funding for actions that may affect the environment. The actual effect on small businesses and local governments is very contextual depending on the action that is under consideration. Therefore, the proposed rules potentially effects all local governments and some small businesses but mostly in a way that is beneficial to them.

The Department expects that the revised proposed rules would reduce the cost of complying with SEQR because of the addition of a number of Type II actions (actions that do not require the preparation of an environmental impact statement) and proposed changes to the environmental impact statement process that would streamline the regulatory decision making process that is subject to SEQR. While a small number of large scale subdivisions may change classifications (due to changes proposed to the Type I list of actions contained in 6 NYCRR 617.4), from Unlisted to Type I, that change is procedural. Applicants for large scale subdivisions elevated to the Type I list would be required to complete the full EAF instead of the short EAF and the review of such subdivisions would require coordinated review. Type I actions are also deemed more likely to require the preparation of an EIS. However, only about 200 EISs are prepared on a yearly basis for tens of thousands of actions that are presumably the subject of a negative declaration. The imposition of mandatory scoping for EISs will mean more early work in the EIS process but statewide relatively few EISs are prepared. Finally, language has been added to the list of topics that an EIS may cover to insure that consideration is given to for the vulnerability of development projects to flooding and sea level rise on account of climate change. Particularly in coastal areas, this may require additional analysis by local governments when they serve as lead agencies, and by small businesses when they are project sponsors. It would be speculative to predict the number of times a project sponsor and lead agency must perform these analyses. Substantive assessment of these topics has long-term benefits, as the nation discovered following the recent spate of hurricanes that have devastated coastal areas, e.g., "Superstorm" Sandy. Planning for major storm events is common sense.

The Department expects that there would be little change, if any, in the professional services that a small business or local government would likely employ to comply with this rule. Currently, the professional services that may be needed to prepare SEQR documents include a wide range of technical expertise. Because of the proposed new Type II actions, there may be a decrease in professional services since those actions would no longer require further compliance with SEQR. However, such an effect is difficult to measure.

The additions to the list of Type II actions may result in the elimination of time and expense for local governments and small business project sponsors.

The proposed changes would also bring greater efficiency to the environmental impact statement process by mandating scoping, creating greater linkages between the determination of significance and the scope of the EIS. The new requirements serve to encourage lead agencies to build on their prior analyses. The proposed regulations would also tighten the rules on whether the lead agency can reject a draft EIS as inadequate. While relatively few actions subject to SEQR (usually larger scale ones) require the preparation of EISs, the business community may realize some benefit in compliance costs from the proposed new procedures that would bring greater certainty to the EIS process. Compliance costs will otherwise remain the same except as discussed above with respect to whether additional professional services may be needed in some cases to timely complete final environmental impact statements.

In preparing the proposed regulatory changes, the Department held numerous stakeholder meetings where individuals representing business and local governments were asked to identify changes that could be made to Part 617. Overall, these meetings were very well attended and the exchanges of ideas and proposals was extensive and exhaustive. The list of individuals is attached as Appendix A to the revised draft environmental impact statement. In the public comment period on the proposal, the Department heard from hundreds of individuals and organizations. The revisions are in response to public comment.

***Revised Rural Area Flexibility Analysis***

1. Types and estimated numbers of rural areas

The regulations are statewide and thus the rules would apply to all rural areas as well as suburban and urban areas of the State.

2. Reporting, recordkeeping and other compliance requirements

There is no change from the existing rules except that a relatively small number of additional larger-scale subdivisions that would not otherwise be classified as Type I actions would now be classified at Type I and be subject to the full environmental assessment form rather than the short form and lead agencies would be required to conduct scoping in instances where environmental impact statements will be completed.

3. Costs

The Department does not expect any additional costs to comply with the new rules except as described in the Regulatory Flexibility Analysis for Small Businesses and Local Governments.

4. Minimizing Adverse Impact

The proposed rules would not have an adverse impact on rural areas since they have the overall effect of decreasing the regulatory burden and making the SEQR process more efficient or streamlined.

6. Rural area Participation

The Department held stakeholder meetings throughout the state. A roster of individuals who attended the meetings is contained in attachment A to the revised draft generic environmental impact statement accompanying the revised proposed rules. As indicated by the roster, meetings were held in upstate locations including Albany and Buffalo. The roster of persons attending the round table discussions included quite a few persons located in rural areas of the State or who regularly work with rural communities. The Department also issued a draft scope to the draft generic environmental impact statement, which was noticed in the Environmental Notice Bulletin. Through that media, the Department solicited comments from all parts of the state including rural areas. The Department also received hundreds of written comments on the proposal following four public hearings and three public informational sessions. The revisions were the product of public comments.

***Revised Job Impact Statement***

The proposed amendments to the State Environmental Quality Review Act (SEQR) regulations at 6 NYCRR Part 617 would have no impact on existing or future jobs and employment opportunities as these are procedural revisions to existing rules. The proposal to add categories of Type II actions would constitute a reduction in regulatory burden. The Type I changes are minor and will not affect development or employment. The changes to the environmental impact statement process can be expected to bring greater efficiency to the EIS process.

A Job Impact Statement is not submitted with this rulemaking proposal because the proposal will not have a "substantial adverse impact on jobs or employment opportunities," which is defined in the State Administrative Procedure Act Section 201-a to mean "a decrease of more than one hundred full-time annual jobs and employment opportunities, including opportunities for self-employment, in the state, or the equivalent in part-time or seasonal employment, which would be otherwise available to the residents of the state in the two-year period commencing on the date the rule takes effect." The proposed changes to Part 617, which again are generally procedural in nature, are not expected to have any such effect and most likely will not affect or impact jobs or employment opportunities.

***Assessment of Public Comment***

The Department received approximately 250 separate comments on the proposed regulatory changes to the regulations that implement the State Environmental Quality Review Act (SEQR). (These comments were additive or overlapped the comments that the Department received at the four public hearings [Albany, New Paltz, Rochester and Hauppauge] and three informational sessions [New Paltz, Rochester and Hauppauge] it held on the proposal in 2017.) The full assessment of public comment can be found in the revised draft generic environmental impact statement (R-DGEIS), which is available on the Department's website at the following address: http://www.dec.ny.gov/permits/83389.html. The R-DGEIS contains a text box in the summary that explains how to read the R-DGEIS to guide the reader in understanding the proposed changes.

The largest block of comments concerned the Department's proposed additions or changes to the Type II list of actions (actions that do not require further review under SEQR). To adopt an addition to the Statewide Type II list, the Commissioner must find that the action or category of action would not have a significant adverse impact on the environment. In addition to the comments that supported some or all of the proposed Type II additions, some commenters argued that one or more of the Department's proposals for Type II actions could have a significant impact on the environment depending on the context of the action or should have further modifying language to prevent such effects from occurring. The Department evaluated each of the proposed Type II actions against this criticism and either modified the proposed Type II action or removed it from consideration. Overall, in response to public comment, the Type II additions have been pared back.

The Department is no longer proposing a number of Type II actions contained in the original proposal. The Type II for anaerobic digesters at waste water treatment plants is no longer being considered based on environmental justice concerns. The Type II for in-fill development is also no longer being considered based on comments pointing out the difficulty of defining municipal centers or in-fill areas on a state-wide level even though the promotion of in-fill development is environmentally beneficial. This particular Type II, while laudatory from a policy standpoint, is better suited for adoption at the municipal level. The proposed Type II for reuse of existing buildings is continued with some refinements to the language of the Type II. The Type II for co-location of cellular antennas is also no longer being proposed based on a number of concerns described in the R-DGEIS though from an environmental standpoint co-location is almost always preferable over construction of new cellular towers. The proposed Type II for small subdivisions is no longer proposed for a variety of reasons set forth in the R-DGEIS though minor subdivisions are typically the subject of a negative declaration. The Department is no longer proposing certain definitions associated with the Type II actions that have been discontinued (e.g., definition for municipal center). Other proposed Type II actions have been modified based on public comments. The Department has added “Superfund” sites (as fully set out in the revised regulations) to the sites where placement of solar arrays would be a Type II action.

The second largest block of comments concerned the proposed rules to streamline the environmental impact statement process. Many of the commenters criticized the Department’s proposal to bring more certainty to the EIS process by a combination of making scoping mandatory and requiring that lead agencies evaluate the completeness of the project sponsor’s draft EIS based on the final scope. The last provision, which is already set out in the regulations, says that a project sponsor can respond to late filed comments as a response to comment in the final EIS if they have not responded to the comments in the draft EIS. Many commenters criticized these changes by arguing that the public often finds out about a project after scoping is complete and that leaving the project sponsor the option of only responding to the comments in the final EIS means that the public would not find out about a late filed comment until the EIS is finalized. The exact same concern was raised in the 1995 regulatory amendments to SEQR. In point of fact, project sponsors usually like to address issues with a project as soon as possible in the review process. Nonetheless, in response to the comments, the Department proposes to modify the language of the regulation currently in effect to say that a project sponsor must include the late filed comments as an appendix to the draft. The Department is seeking public comment on this change as well as all other revisions from the original proposal.

Finally, commenters pointed out that while the Department has proposed to create a threshold for actions occurring substantially contiguous to properties on the National Register of Historic Places in the Type I list of actions to 25 percent of any other threshold in the Type I list and to include properties determined to be eligible for listing on the National Register, it needs to update the environmental assessment forms to reflect the proposed change in the regulations. The Department now proposes to do so and has included those minor typographic fixes and clarifications to the environmental assessment forms. The revised forms are also available on the Department’s website.

# Department of Financial Services

## NOTICE OF EXPIRATION

The following notice has expired and cannot be reconsidered unless the Department of Financial Services publishes a new notice of proposed rule making in the NYS *Register.*

**Continuing Care Retirement Communities**

| I.D. No. | Proposed | Expiration Date |
|---|---|---|
| DFS-11-17-00003-P | March 15, 2017 | March 15, 2018 |

# Office of Information Technology Services

## NOTICE OF ADOPTION

**Implementing the Electronic Signatures and Records Act**

**I.D. No.** ITS-52-17-00002-A

**Filing No.** 258

**Filing Date:** 2018-03-14

**Effective Date:** 2018-04-04

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** Amendment of sections 540.1-540.3 of Title 9 NYCRR.

***Statutory authority:*** State Technology Law, sections 103, 303, 304, 305; and Real Property Law, section 291-i

***Subject:*** Implementing the Electronic Signatures and Records Act.

***Purpose:*** Correcting outdated references to the name of ITS and the physical address of the Property Records Industry Association (PRIA).

***Text or summary was published*** in the December 27, 2017 issue of the Register, I.D. No. ITS-52-17-00002-P.

***Final rule as compared with last published rule:*** No changes.

***Text of rule and any required statements and analyses may be obtained from:*** Division of Legal Affairs, ITS, Empire State Plaza, PO Box 2062, Albany, NY 12220-0062, (518) 473-5115, email: its.sm.dla@its.ny.gov

***Additional matter required by statute:*** Pursuant to the requirements of the State Environmental Quality Review Act, ITS, as lead agency, has determined that the action described herein will have no effect on the environment and an E.I.S. is not needed.

***Assessment of Public Comment***

The agency received no public comment.

## NOTICE OF ADOPTION

**Concerning State Agency Internet Posting of Application Forms**

**I.D. No.** ITS-52-17-00003-A

**Filing No.** 260

**Filing Date:** 2018-03-14

**Effective Date:** 2018-04-04

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** Amendment of sections 552.1, 552.3(c), (d) and 552.5(a) of Title 9 NYCRR.

***Statutory authority:*** Executive Law, section 164-d; State Technology Law, section 103

***Subject:*** Concerning State Agency Internet posting of application forms.

***Purpose:*** Correcting outdated references to the former name of ITS, and the Governor’s Office of Regulatory Reform (GORR).

***Text or summary was published*** in the December 27, 2017 issue of the Register, I.D. No. ITS-52-17-00003-P.

***Final rule as compared with last published rule:*** No changes.

***Text of rule and any required statements and analyses may be obtained from:*** Division of Legal Affairs, ITS, Empire State Plaza, PO Box 2062, Albany, NY 12220-0062, (518) 473-5115, email: its.sm.dla@its.ny.gov

***Additional matter required by statute:*** Pursuant to the requirements of the State Environmental Quality Review Act, ITS, as lead agency, has determined that the action described herein will have no effect on the environment and an E.I.S. is not needed.

***Assessment of Public Comment***

The agency received no public comment.

## NOTICE OF ADOPTION

**Providing Public Access to the Records of the Office of Information Technology Services**

**I.D. No.** ITS-52-17-00004-A

**Filing No.** 257

**Filing Date:** 2018-03-14

**Effective Date:** 2018-04-04

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** Amendment of sections 550.1, 550.2, 550.5, 550.6 and 550.8 of Title 9 NYCRR.

***Statutory authority:*** Public Officers Law, art. 6; Executive Law, sections 206-a[11], 208; L. 2012, ch. 55, part O, section 14; State Technology Law, section 103

***Subject:*** Providing public access to the records of the Office of Information Technology Services.

***Purpose:*** Correcting outdated references to the name of ITS, a job title in the ITS Division of Legal Affairs; and gender references.

***Text or summary was published*** in the December 27, 2017 issue of the Register, I.D. No. ITS-52-17-00004-P.

***Final rule as compared with last published rule:*** No changes.

***Text of rule and any required statements and analyses may be obtained from:*** Division of Legal Affairs, ITS, Empire State Plaza, PO Box 2062, Albany, NY 12220-0062, (518) 473-5115, email: its.sm.dla@its.ny.gov

***Additional matter required by statute:*** Pursuant to the requirements of the State Environmental Quality Review Act, ITS, as lead agency, has determined that the action described herein will have no effect on the environment and an E.I.S. is not needed.

***Assessment of Public Comment***

The agency received no public comment.

## NOTICE OF ADOPTION

**Providing Access to Personal Information**

**I.D. No.** ITS-52-17-00005-A

**Filing No.** 259

**Filing Date:** 2018-03-14

**Effective Date:** 2018-04-04

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** Amendment of sections 551.1-551.3, 551.5-551.8, 551.10 and 551.11 of Title 9 NYCRR.

***Statutory authority:*** Public Officers Law, art. 6-A, section 94[2]; Executive Law, section 206-a[11]

***Subject:*** Providing access to personal information.

***Purpose:*** To correct outdated references to the name of ITS and a job title in the ITS Division of Legal Affairs.

***Text or summary was published*** in the December 27, 2017 issue of the Register, I.D. No. ITS-52-17-00005-P.

***Final rule as compared with last published rule:*** No changes.

***Text of rule and any required statements and analyses may be obtained from:*** Division of Legal Affairs, ITS, Empire State Plaza, PO Box 2062, Albany, NY 12220-0062, (518) 473-5115, email: its.sm.dla@its.ny.gov

***Additional matter required by statute:*** Pursuant to the requirements of the State Environmental Quality Review Act, ITS, as lead agency, has determined that the action described herein will have no effect on the environment and an E.I.S. is not needed.

***Assessment of Public Comment***

The agency received no public comment.

# Office of Mental Health

## REVISED RULE MAKING
## NO HEARING(S) SCHEDULED

**Early and Periodic Screening, Diagnostic and Treatment Services for Children**

**I.D. No.** OMH-31-17-00001-RP

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following revised rule:

***Proposed Action:*** Amendment of Part 511 of Title 14 NYCRR.

***Statutory authority:*** Mental Hygiene Law, sections 7.07 and 7.09

***Subject:*** Early and Periodic Screening, Diagnostic and Treatment Services for Children.

***Purpose:*** To promote the expansion of behavioral health services for children and youth under 21 years of age.

***Substance of revised rule (Full text is posted at the following State website: www.omh.ny.gov):*** The New York State Office of Mental Health (OMH), Office of Alcoholism and Substance Abuse Services (OASAS), Office of Children and Family Services (OCFS), and the Department of Health (DOH) have worked in collaboration to promote the expansion of behavioral health services for children and youth under 21 years of age by identifying six services to be offered under the Early and Periodic Screening, Diagnosis and Treatment Benefits, commonly known as EPSDT. These six services will be available to any child eligible for Medicaid who meets relevant medical necessity criteria.

The main goals of the additional services as identified in New York State's Medicaid Plan is to:

- Identify needs early on in a child's life;
- Maintain the child at home with support and services;
- Maintain the child in the community in the least restrictive settings possible;
- Prevent the need for long-term and/or more expensive services; and
- To increase the delivery of services following trauma-informed care principles.

To accomplish these goals, the following services will be implemented:

- Other Licensed Practitioner;
- Crisis Intervention;
- Community Psychiatric Support and Treatment;
- Psychosocial Rehabilitation;
- Family Peer Support; and
- Youth Peer Support and Training.

To facilitate the delivery of these services, DOH, OMH, OASAS, and OCFS will designate licensed, certified, or approved providers under their respective jurisdictions to offer these services under the Medicaid program. OMH is proposing a new Part 511 to Title 14 NYCRR to establish the process under which providers of mental health services that are operated, licensed, or funded may obtain designation to offer any or all of these six services.

A provider of mental health services is eligible to apply for designation if it is enrolled in the Medicaid program prior to commencing service delivery; have a history of compliance with federal and state laws and regulations governing the provision of mental health services; and satisfy requisite criteria identified in the New York State Plan Amendment Designation Application and standards of care identified in the Children's Health and Behavioral Health Services Transformation Medicaid State Plan Provider Manual. Requests for designation must be in writing, in a form and format identified by OMH. The proposed regulations also include a process for revocation of a designation, establish a requirement for OMH to publish guidelines for service provision on its public website, and indicate that the aforementioned standards of care are incorporated by reference.

***Revised rule compared with proposed rule:*** Substantial revisions were made in sections 511.1(d), (e), 511.3(a) and (b).

***Text of revised proposed rule and any required statements and analyses may be obtained from*** Kim Breen, NYS Office of Mental Health, 44 Holland Avenue, Albany, NY 12229, (518) 473-6945, email: kim.breen@omh.ny.gov

***Data, views or arguments may be submitted to:*** Same as above.

***Public comment will be received until:*** 30 days after publication of this notice.

***Revised Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement***

Changes made to the last published proposed rule have no bearing on the last published Regulatory Impact Statement, Regulatory Flexibility Analysis for Small Businesses and Local Governments, Rural Area Flexibility Analysis and Job Impact Statement. The changes to the text still seek to establish a designation process for the provision of six EPSDT services in a way that accomplishes the goals highlighted in these documents. These changes, while some of them are substantial, do not affect the meaning of any statements in these documents.

***Assessment of Public Comment***

The Office of Mental Health has received public comments from three stakeholder entities on the proposed rulemaking amending Title 14 of the NYCRR to create a new Part 511 to promote the expansion of behavioral health services for children and youth under the age of 21 years of age. All of the comments were reviewed, assessed and taken into consideration. Below are the collective responses to each of the issues presented.

1. Comment: It was suggested that the regulations include licensed behavior analysts and certified behavior analyst assistants to the list of ‘‘other providers’’ in 14 NYCRR §§ 511.4(f) and 511.5(4).

Response: No changes to the regulations were made to address this comment. Behavior Analysts and Certified Behavior Analyst Assistants were not included in the list of practitioners because Medicaid does not recognize Applied Behavior Analysis (ABA) therapists or directly cover ABA therapy. The services included under this proposed regulation are Medicaid reimbursable State Plan services.

2. Comment: The regulation identified 18 NYCRR § 507.6 as a legal basis for its promulgation, explaining that these regulations establish standards for the designation of qualified providers by the Department of Health to deliver EPSDT services under the New York State Medicaid program This appears incorrect and should be replaced with a reference to 18 NYCRR § 505.38.

Response: This was a clerical error. The regulations have been revised to include the reference to 18 NYCRR § 505.38.

3. Comment: OMH was asked to clarify whether unlicensed providers could be eligible to provide the services identified in 14 NYCRR § 511.3(a), and whether a reference to unlicensed providers that receive funding through, or have a contract with, OMH includes providers that receive funding indirectly through contracts with the local government unit.

Response: No changes to the regulations were made to address this comment. Licensed mental health providers are eligible to apply for designation to provide any of the new six State Plan (SPA) services. Mental health providers that, are not licensed by OMH but currently receive funding from or have a contract with OMH, directly or through contract with the local governmental unit, are eligible to apply for designation to provide Psychosocial Rehabilitation, Family Peer Support Services, Youth Peer Support Services, or (because of the amendments made in response to #4) Crisis Intervention Services.

4. Comment: In response to questions, eligibility criteria for designation to provide Crisis Intervention Services have been revised in 14 NYCRR Sections 511.1(d) and (e) and Sections 511.3(a) and (b). In the proposed rule, providers licensed by OMH could be designated to provide these services, but providers not licensed but funded by or contracted with OMH could not. Upon further review, it was determined that the Crisis Intervention EPSDT services differ from the type of crisis intervention services currently offered by OMH licensed providers, and thus could, in fact, be offered by unlicensed mental health providers. For purposes of 14 NYCRR Part 511, the term “Crisis Intervention Services” refers to a skills-based, experiential and evidence based practice of provision of support to an individual who may be experiencing a mental health crisis, and subsequently connecting such individual to appropriate resources. To provide the service, crisis Intervention teams will triage a crisis by assessing risk, mental status and the need for further evaluation or other health/behavioral health services. Once the crisis has been resolved, the Crisis team will consult with a physician or other licensed practitioner of the healing arts to assist with future service access. As such, provision of this services does not connote examination, diagnosis, care, treatment, rehabilitation, or training of a person with mental illness and thus does not constitute a nonresidential service requiring licensure under Mental Hygiene Law Section 31.02.

# Office for People with Developmental Disabilities

## PROPOSED RULE MAKING
## NO HEARING(S) SCHEDULED

**Telephone Service**

**I.D. No.** PDD-14-18-00002-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

***Proposed Action:*** Amendment of Part 635 of Title 14 NYCRR.

***Statutory authority:*** Mental Hygiene Law, sections 13.07, 13.09(b) and 16.00

***Subject:*** Telephone Service.

***Purpose:*** To require providers to have and maintain active telephone service at all times.

***Text of proposed rule:*** Existing paragraph 635-7.3(c)(6) is deleted and a new paragraph 635-7.3(c)(6) is added as follows:

*(6) The home must have and maintain active telephone service.*

*(i) Cellular and/or landline services must be used to meet this requirement.*

*(ii) If cellular telephone service is not available at a location at all times, landline telephone service is required.*

*(iii) Landline telephone service, where provided, must consist of one or more of the following types of land based transmission: cable, microwave, fiber optic, or copper wire.*

*(iv) Landline telephone service must remain in working order and function during power outages or be backed up by immediately available cellular service.*

Existing subparagraph 635-7.4(b)(3)(iii) is deleted and a new subparagraph 635-7.4(b)(3)(iii) is added as follows:

*(iii) The home must have and maintain active telephone service.*

*(a) Cellular and/or landline services must be used to meet this requirement.*

*(b) If cellular telephone service is not available at a location at all times, landline telephone service is required.*

*(c) Landline telephone service, where provided, must consist of one or more of the following types of land based transmission: cable, microwave, fiber optic, or copper wire.*

*(d) Landline telephone service must remain in working order and function during power outages or be backed up by immediately available cellular service.*

Existing subdivision 635-99.1(ba) is deleted and reserved.

***Text of proposed rule and any required statements and analyses may be obtained from:*** Office of Counsel, Bureau of Policy and Regulatory Affairs, Office for People With Developmental Disabilities (OPWDD), 44 Holland Ave., 3rd Floor, Albany, NY 12229, (518) 474-7700, email: rau.unit@opwdd.ny.gov

***Data, views or arguments may be submitted to:*** Same as above.

***Public comment will be received until:*** 60 days after publication of this notice.

***Additional matter required by statute:*** Pursuant to the requirements of the State Environmental Quality Review Act, OPWDD, as lead agency, has determined that the action described herein will have no effect on the environment and an E.I.S. is not needed.

***This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.***

***Regulatory Impact Statement***

1. Statutory authority:

a. OPWDD has the statutory responsibility to provide and encourage the provision of appropriate programs, supports, and services in the areas of care, treatment, habilitation, rehabilitation, and other education and training of persons with intellectual and developmental disabilities, as stated in the New York State (NYS) Mental Hygiene Law Section 13.07.

b. OPWDD has the authority to adopt rules and regulations necessary and proper to implement any matter under its jurisdiction as stated in the NYS Mental Hygiene Law Section 13.09(b).

c. OPWDD has the statutory authority to adopt regulations concerned with the operation of programs and the provision of services, as stated in the NYS Mental Hygiene Law Section 16.00.

2. Legislative objectives: The proposed regulations further legislative objectives embodied in sections 13.07, 13.09(b), 16.00 of the Mental Hygiene Law by providing a safer environment for individuals living in residential facilities through requiring providers to have and maintain active telephone service at all times. This active telephone service may include cellular telephone service in some circumstances and includes a variety of landline type services that were not previously available.

3. Needs and benefits: The proposed regulations are necessary to require OPWDD operated and certified providers to have and maintain active telephone service at all times.

The proposed regulations are necessary to allow cellular service as an option, under certain circumstances, for the telephone service requirement.

The proposed regulations are necessary to allow landline telephone services to consist new types of land based transmissions such as cable, microwave, fiber optic, or copper wire.

In addition, the proposed regulations are necessary to provide individuals with a safer environment by providing individuals with access to a telephone service at all times which can be used to reach outside resources in time of need.

4. Costs:

a. Costs to the Agency and to the State and its local governments:

There is no anticipated impact on Medicaid expenditures as a result of the proposed regulations. The regulations require OPWDD operated and certified providers to have and maintain active telephone service at all times. Consequently, there are no anticipated costs for the State in its role of paying for Medicaid costs.

These regulations will not have any fiscal impact on local governments, as the contribution of local governments to Medicaid has been capped. Chapter 58 of the Laws of 2005 places a cap on the local share of Medicaid costs and local governments are already paying for Medicaid at the capped level.

There are no anticipated costs to OPWDD in its role as a provider of services to comply with the new requirements. The amendments require providers to have and maintain active telephone service for the protection of individuals that live in residential facilities, however providers should have an appropriate telephone service to satisfy the requirement.

b. Costs to private regulated parties: There are no anticipated costs to regulated providers to comply with the proposed regulations. The amendments require providers to have and maintain active telephone service for the protection of individuals that live in residential facilities, however providers should have an appropriate telephone service to satisfy the requirement.

5. Local government mandates: There are no new requirements imposed by the rule on any county, city, town, village; or school, fire, or other special district.

6. Paperwork: Providers will not experience an increase in paperwork as a result of the proposed regulations.

7. Duplication: The proposed regulations do not duplicate any existing State or Federal requirements on this topic.

8. Alternatives: OPWDD did not consider any other alternatives to the proposed regulations. The regulations are necessary to comply with MHL 33.07.

9. Federal standards: The proposed amendments do not exceed any minimum standards of the federal government for the same or similar subject areas.

10. Compliance schedule: OPWDD is planning to adopt the proposed amendments as soon as possible within the timeframes mandated by the State Administrative Procedure Act. The proposed regulations were discussed with and reviewed by representatives of providers in advance of this proposal. Additionally, OPWDD will be mailing a notice of the proposed amendments to providers in advance of the effective date.

***Regulatory Flexibility Analysis***

A regulatory flexibility analysis for small businesses and local governments is not being submitted because these amendments will not impose any adverse economic impact or reporting, record keeping or other compliance requirements on small businesses. There are no professional services, capital, or other compliance costs imposed on small businesses as a result of these amendments.

The proposed regulations amend Title 14 NYCRR Subpart 635-7 by requiring providers to have and maintain active telephone service for the protection of individuals that live in residential facilities. The amendments will not result in costs or new compliance requirements for regulated parties and consequently, the amendments will not have any adverse effects on providers of small business and local governments.

***Rural Area Flexibility Analysis***

A Rural Area Flexibility Analysis for these amendments is not being submitted because the amendments will not impose any adverse impact or significant reporting, record keeping or other compliance requirements on public or private entities in rural areas. There are no professional services, capital, or other compliance costs imposed on public or private entities in rural areas as a result of the amendments.

The proposed regulations amend Title 14 NYCRR Subpart 635-7 by requiring providers to have and maintain active telephone service for the protection of individuals that live in residential facilities. The amendments will not result in costs or new compliance requirements for regulated parties and consequently, the amendments will not have any adverse effects on providers in rural areas and local governments.

***Job Impact Statement***

A Job Impact Statement for the proposed amendments is not being submitted because it is apparent from the nature and purposes of the amendments that they will not have a substantial adverse impact on jobs and/or employment opportunities.

The proposed regulations amend Title 14 NYCRR Subpart 635-7 by requiring providers to have and maintain active telephone service for the protection of individuals that live in residential facilities. The amendments will not result in costs, including staffing costs, or new compliance requirements for providers and consequently, the amendments will not have a substantial impact on jobs or employment opportunities in New York State.

# Public Service Commission

## EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

### Authorization of a New Tariff Leaf, Rider A, for High Density Demand Customers

**I.D. No.** PSC-14-18-00001-EP

**Filing Date:** 2018-03-19

**Effective Date:** 2018-03-19

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Proposed Action:*** The Public Service Commission, on March 15, 2018, adopted an order authorizing the New York Municipal Power Agency (NYMPA) to add the proposed Rider A to its generic tariff for its members, which are municipal electric utilities.

***Statutory authority:*** Public Service Law, section 66

***Finding of necessity for emergency rule:*** Preservation of general welfare.

***Specific reasons underlying the finding of necessity:*** On March 15, 2018, the New York Municipal Power Authority (NYMPA) filed for approval of a new rider to its generic tariff (used by all of New York Power Authority [NYPA] members). The new Rider A would establish a service class for high density load (HDL) customers, who are characterized by high demand, low investment in facilities, and high mobility. Rider A would set conditions for service for HDL customers such that these customers would be responsible for all commodity costs that are caused by HDL customers. The Commission authorizes emergency action in this case because current HDL customers are receiving the benefit of low-cost hydropower NYMPA members receive from NYPA without providing the benefits of local investment and employment that are otherwise required of commercial enterprises seeking NYPA hydropower. In addition, without Rider A, other NYMPA ratepayers are required to pay significantly higher costs for non-NYPA electricity. Given the broad economic costs HDL customers currently impose on other ratepayers, the Commission finds that the public's general welfare is served by adopting Rider A on an emergency basis.

***Subject:*** Authorization of a new tariff leaf, Rider A, for high density demand customers.

***Purpose:*** To allow the New York Municipal Power Agency's Rider A to go into effect on an emergency basis.

***Substance of emergency/proposed rule:*** The Commission, on March 15, 2018, adopted an order authorizing the New York Municipal Power Agency (NYMPA) to add the proposed Rider A to its generic tariff for its members, which are municipal electric utilities. Rider A addresses service to high density load (HDL) customers, which are customers with high power demands and few ties to the community that require the utilities to purchase power from private generators to supplement the lower cost hydropower they receive from the New York Power Authority. NYMPA states that this results in higher commodity costs for all customers, even though it is solely the result of HDL customers. Under Rider A, HDL customers are defined as using at least 250 kWh/ft2/year, with a minimum demand of 300kW. HDL customers would have to identify the equipment to be energized, which allows the utility to determine what upgrades are needed to provide service, be required to make a contribution to the capital costs of supplying service due to their transient nature, and pay for additional commodity costs that are the result of their consumption, subject to the terms and conditions set forth in the order.

***This notice is intended:*** to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire June 16, 2018.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

***Data, views or arguments may be submitted to:*** Kathleen H. Burgess, Secretary, Department of Public Service, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

***Public comment will be received until:*** 60 days after publication of this notice.

***Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement***

Statements and analyses are not submitted with this notice because the amended rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-E-0126EP1)

## NOTICE OF ADOPTION

### Pension Settlement Deferral

**I.D. No.** PSC-36-14-00011-A

**Filing Date:** 2018-03-15

**Effective Date:** 2018-03-15

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** On 3/15/18, the PSC adopted the terms of a joint proposal resolving Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) Petition for Authorization to Defer an Actuarial Experience Pension Settlement Loss for Fiscal Year 2014.

***Statutory authority:*** Public Service Law, section 66

***Subject:*** Pension settlement deferral.

***Purpose:*** To adopt the terms of a joint proposal resolving National Grid's petition to defer pension settlement losses.

***Substance of final rule:*** The Commission, on March 15, 2018, adopted the terms of a joint proposal resolving Niagara Mohawk Power Corporation d/b/a National Grid's Petition for Authorization to Defer an Actuarial Experience Pension Settlement Loss for Fiscal Year 2014, subject to the terms and conditions set forth in the order.

***Final rule as compared with last published rule:*** No changes.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

***Assessment of Public Comment***

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(14-M-0042SA2)

## NOTICE OF ADOPTION

### Annual Gas Cost Reconciliation and Alternative Cost Recovery Mechanism

**I.D. No.** PSC-12-15-00007-A

**Filing Date:** 2018-03-19

**Effective Date:** 2018-03-19

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** On 3/15/18, the PSC adopted an order denying Small Customer Marketer Coalition's (SCMC) petition to institute an investigation to examine the Annual Gas Cost Reconciliation and Alternative Cost Recovery Mechanism.

***Statutory authority:*** Public Service Law, sections 3.5, 65, 66, 720-6.5 of Title 16 NYCRR

***Subject:*** Annual Gas Cost Reconciliation and Alternative Cost Recovery Mechanism.

***Purpose:*** To deny SCMC's petition for an investigation to examine Annual Gas Cost Reconciliation and Alternative Cost Recovery Mechanism.

***Substance of final rule:*** The Commission, on March 15, 2018, adopted an order denying Small Customer Marketer Coalition's (SCMC) petition to institute an investigation to examine the Annual Reconciliation of Gas Expenses and Gas Cost Recoveries governed by NYCRR § 720.6.5 and examine an alternative cost recovery mechanism that would ensure that the monthly gas adjustment clauses (GAC) are truly reflective of current market costs, subject to the terms and conditions set forth in the order.

***Final rule as compared with last published rule:*** No changes.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

***Assessment of Public Comment***

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-G-0101SA1)

## NOTICE OF ADOPTION

### Gas Safety Performance Metrics

**I.D. No.** PSC-29-16-00025-A

**Filing Date:** 2018-03-15

**Effective Date:** 2018-03-15

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** On 3/15/18, the PSC adopted the terms of a joint proposal resolving Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) Petition to Modify its Existing Gas Safety Metric.

***Statutory authority:*** Public Service Law, sections 5(1), 65 and 66

***Subject:*** Gas Safety Performance Metrics.

***Purpose:*** To adopt the terms of a joint proposal resolving National Grid's petition on its Gas Safety Metric.

***Substance of final rule:*** The Commission, on March 15, 2018, adopted the terms of a joint proposal resolving Niagara Mohawk Power Corporation d/b/a National Grid's Petition to Modify its Existing Gas Safety Metric, subject to the terms and conditions set forth in the order.

***Final rule as compared with last published rule:*** No changes.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

***Assessment of Public Comment***

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(12-G-0202SA6)

## NOTICE OF ADOPTION

### Proposed Public Policy Transmission Needs/Public Policy Requirements

**I.D. No.** PSC-42-16-00014-A

**Filing Date:** 2018-03-16

**Effective Date:** 2018-03-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** On 3/15/18, the PSC adopted an order addressing New York Independent System Operator, Inc.'s (NYISO) proposal on Public Policy Requirements for Transmission Planning Purposes.

***Statutory authority:*** Public Service Law, sections 4(1), 5(1)(b), (2), 65(1), 66(1), (2) and (5)

***Subject:*** Proposed Public Policy Transmission Needs/Public Policy Requirements.

***Purpose:*** To address NYISO's proposal on Public Policy Requirements for Transmission Planning Purposes.

***Substance of final rule:*** The Commission, on March 15, 2018, adopted an order addressing New York Independent System Operator, Inc.'s proposal on Public Policy Requirements for Transmission Planning Purposes, subject to the terms and conditions set forth in the order.

***Final rule as compared with last published rule:*** No changes.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

***Assessment of Public Comment***

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(16-E-0558SA1)

## NOTICE OF ADOPTION

### Electric Rate Plan

**I.D. No.** PSC-27-17-00014-A

**Filing Date:** 2018-03-15

**Effective Date:** 2018-03-15

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** On 3/15/18, the PSC adopted the terms of a joint proposal establishing a three-year electric rate plan for Niagara Mohawk Power Corporation d/b/a National Grid (National Grid).

***Statutory authority:*** Public Service Law, sections 5, 65 and 66

***Subject:*** Electric rate plan.

***Purpose:*** To adopt the terms of a joint proposal establishing a three-year electric rate plan for National Grid.

***Substance of final rule:*** The Commission, on March 15, 2018, adopted the terms of a joint proposal, signed by Niagara Mohawk Power Corporation d/b/a National Grid (National Grid), trial staff of the Department of Public Service, Multiple Intervenors, Pace Energy and Climate Center, Environmental Defense Fund, International Brotherhood of Electrical Workers Local Union 97, New York Geothermal Energy Organization, Inc., Tesla, Inc., City of Buffalo, City of Albany, City of Syracuse, ChargePoint, Inc., Great Eastern Energy, Mirabito Natural Gas, Blue Rock Energy, Inc., Direct Energy Services, LLC, New York State Office of General Services, Wal-Mart Stores, East, LP and Sam's East, Inc., and New York Power Authority, establishing a three-year electric rate plan for National Grid, subject to the terms and conditions set forth in the order.

***Final rule as compared with last published rule:*** No changes.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

***Assessment of Public Comment***

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(17-E-0238SA1)

## NOTICE OF ADOPTION

### Gas Rate Plan

**I.D. No.** PSC-27-17-00017-A

**Filing Date:** 2018-03-15

**Effective Date:** 2018-03-15

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** On 3/15/18, the PSC adopted the terms of a joint proposal establishing a three-year gas rate plan for Niagara Mohawk Power Corporation d/b/a National Grid (National Grid).

***Statutory authority:*** Public Service Law, sections 5, 65 and 66

***Subject:*** Gas rate plan.

***Purpose:*** To adopt the terms of a joint proposal establishing a three-year gas rate plan for National Grid.

***Substance of final rule:*** The Commission, on March 15, 2018, adopted the terms of a joint proposal, signed by Niagara Mohawk Power Corporation d/b/a National Grid (National Grid), trial staff of the Department of Public Service, Multiple Intervenors, Pace Energy and Climate Center, Environmental Defense Fund, International Brotherhood of Electrical Workers Local Union 97, New York Geothermal Energy Organization, Inc., Tesla, Inc., City of Buffalo, City of Albany, City of Syracuse, ChargePoint, Inc., Great Eastern Energy, Mirabito Natural Gas, Blue Rock Energy, Inc., Direct Energy Services, LLC, New York State Office of General Services, Wal-Mart Stores, East, LP and Sam's East, Inc., and New York Power Authority, establishing a three-year gas rate plan for National Grid, subject to the terms and conditions set forth in the order.

***Final rule as compared with last published rule:*** No changes.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

***Assessment of Public Comment***

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(17-G-0239SA1)

## NOTICE OF ADOPTION

### Energy Efficiency Budgets and Targets for 2019-2020

**I.D. No.** PSC-34-17-00005-A

**Filing Date:** 2018-03-15

**Effective Date:** 2018-03-15

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** On 3/15/18, the PSC adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) Energy Efficiency Portfolio Budgets and Targets for 2019-2020.

***Statutory authority:*** Public Service Law, sections 4(1), 5(2), 65(1) and 66(1)

***Subject:*** Energy Efficiency Budgets and Targets for 2019-2020.

***Purpose:*** To approve National Grid's Energy Efficiency Portfolio Budgets and Targets for 2019-2020.

***Substance of final rule:*** The Commission, on March 15, 2018, adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's Energy Efficiency Portfolio Budgets and Targets for 2019-2020, as well as operational rules for this portfolio, subject to the terms and conditions set forth in the order.

***Final rule as compared with last published rule:*** No changes.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

***Assessment of Public Comment***

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0252SA28)

## NOTICE OF ADOPTION

### Energy Efficiency Budgets and Targets for 2019-2020

**I.D. No.** PSC-34-17-00006-A

**Filing Date:** 2018-03-15

**Effective Date:** 2018-03-15

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** On 3/15/18, the PSC adopted an order approving National

Fuel Gas Distribution Corporation's (NFG) Energy Efficiency Portfolio Budgets and Targets for 2019-2020.

***Statutory authority:*** Public Service Law, sections 4(1), 5(2), 65(1) and 66(1)

***Subject:*** Energy Efficiency Budgets and Targets for 2019-2020.

***Purpose:*** To approve NFG's Energy Efficiency Portfolio Budgets and Targets for 2019-2020.

***Substance of final rule:*** The Commission, on March 15, 2018, adopted an order approving National Fuel Gas Distribution Corporation's Energy Efficiency Portfolio Budgets and Targets for 2019-2020, as well as operational rules for this portfolio, subject to the terms and conditions set forth in the order.

***Final rule as compared with last published rule:*** No changes.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

***Assessment of Public Comment***

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0252SA27)

## NOTICE OF ADOPTION

**Energy Efficiency Budgets and Targets for 2019-2020**

**I.D. No.** PSC-34-17-00007-A

**Filing Date:** 2018-03-15

**Effective Date:** 2018-03-15

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** On 3/15/18, the PSC adopted an order approving New York State Electric and Gas Corporation's (NYSEG) and Rochester Gas and Electric Corporation's (RG&E) Energy Efficiency Portfolio Budgets and Targets for 2019-2020.

***Statutory authority:*** Public Service Law, sections 4(1), 5(2), 65(1) and 66(1)

***Subject:*** Energy Efficiency Budgets and Targets for 2019-2020.

***Purpose:*** To approve NYSEG's and RG&E's Energy Efficiency Portfolio Budgets and Targets for 2019-2020.

***Substance of final rule:*** The Commission, on March 15, 2018, adopted an order approving New York State Electric and Gas Corporation's and Rochester Gas and Electric Corporation's Energy Efficiency Portfolio Budgets and Targets for 2019-2020, as well as operational rules for this portfolio, subject to the terms and conditions set forth in the order.

***Final rule as compared with last published rule:*** No changes.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

***Assessment of Public Comment***

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0252SA29)

## NOTICE OF ADOPTION

**Energy Efficiency Budgets and Targets for 2019-2020**

**I.D. No.** PSC-34-17-00008-A

**Filing Date:** 2018-03-15

**Effective Date:** 2018-03-15

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** On 3/15/18, the PSC adopted an order approving Orange and Rockland Utilities, Inc.'s (O&R) Energy Efficiency Portfolio Budgets and Targets for 2019-2020.

***Statutory authority:*** Public Service Law, sections 4(1), 5(2), 65(1) and 66(1)

***Subject:*** Energy Efficiency Budgets and Targets for 2019-2020.

***Purpose:*** To approve O&R's Energy Efficiency Portfolio Budgets and Targets for 2019-2020.

***Substance of final rule:*** The Commission, on March 15, 2018, adopted an order approving Orange and Rockland Utilities, Inc.'s Energy Efficiency Portfolio Budgets and Targets for 2019-2020, as well as operational rules for this portfolio, subject to the terms and conditions set forth in the order.

***Final rule as compared with last published rule:*** No changes.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

***Assessment of Public Comment***

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0252SA30)

## NOTICE OF ADOPTION

**Energy Efficiency Budgets and Targets for 2019-2020**

**I.D. No.** PSC-34-17-00009-A

**Filing Date:** 2018-03-15

**Effective Date:** 2018-03-15

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** On 3/15/18, the PSC adopted an order approving Consolidated Edison Company of New York, Inc.'s (Con Edison) Energy Efficiency Portfolio Budgets and Targets for 2019-2020.

***Statutory authority:*** Public Service Law, sections 4(1), 5(2), 65(1) and 66(1)

***Subject:*** Energy Efficiency Budgets and Targets for 2019-2020.

***Purpose:*** To approve Con Edison's Energy Efficiency Portfolio Budgets and Targets for 2019-2020.

***Substance of final rule:*** The Commission, on March 15, 2018, adopted an order approving Consolidated Edison Company of New York, Inc.'s Energy Efficiency Portfolio Budgets and Targets for 2019-2020, as well as operational rules for this portfolio, subject to the terms and conditions set forth in the order.

***Final rule as compared with last published rule:*** No changes.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

***Assessment of Public Comment***

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0252SA24)

## NOTICE OF ADOPTION

**Energy Efficiency Budgets and Targets for 2019-2020**

**I.D. No.** PSC-34-17-00012-A

**Filing Date:** 2018-03-15

**Effective Date:** 2018-03-15

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** On 3/15/18, the PSC adopted an order approving Central Hudson Gas and Electric Corporation's (Central Hudson) Energy Efficiency Portfolio Budgets and Targets for 2019-2020.

***Statutory authority:*** Public Service Law, sections 4(1), 5(2), 65(1) and 66(1)

***Subject:*** Energy Efficiency Budgets and Targets for 2019-2020.

***Purpose:*** To approve Central Hudson's Energy Efficiency Portfolio Budgets and Targets for 2019-2020.

***Substance of final rule:*** The Commission, on March 15, 2018, adopted an order approving Central Hudson Gas and Electric Corporation's Energy Efficiency Portfolio Budgets and Targets for 2019-2020, as well as operational rules for this portfolio, subject to the terms and conditions set forth in the order.

***Final rule as compared with last published rule:*** No changes.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

***Assessment of Public Comment***

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0252SA23)

## NOTICE OF ADOPTION

**Energy Efficiency Budgets and Targets for 2019-2020**

**I.D. No.** PSC-34-17-00013-A

**Filing Date:** 2018-03-15

**Effective Date:** 2018-03-15

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** On 3/15/18, the PSC adopted an order approving KeySpan Gas East Corporation d/b/a National Grid's (KEDLI) Energy Efficiency Portfolio Budgets and Targets for 2019-2020.

***Statutory authority:*** Public Service Law, sections 4(1), 5(2), 65(1) and 66(1)

***Subject:*** Energy Efficiency Budgets and Targets for 2019-2020.

***Purpose:*** To approve KEDLI's Energy Efficiency Portfolio Budgets and Targets for 2019-2020.

***Substance of final rule:*** The Commission, on March 15, 2018, adopted an order approving KeySpan Gas East Corporation d/b/a National Grid's Energy Efficiency Portfolio Budgets and Targets for 2019-2020, as well as operational rules for this portfolio, subject to the terms and conditions set forth in the order.

***Final rule as compared with last published rule:*** No changes.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

***Assessment of Public Comment***

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0252SA25)

## NOTICE OF ADOPTION

**Energy Efficiency Budgets and Targets for 2019-2020**

**I.D. No.** PSC-34-17-00014-A

**Filing Date:** 2018-03-15

**Effective Date:** 2018-03-15

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** On 3/15/18, the PSC adopted an order approving The Brooklyn Union Gas Company d/b/a National Grid's (KEDNY) Energy Efficiency Portfolio Budgets and Targets for 2019-2020.

***Statutory authority:*** Public Service Law, sections 4(1), 5(2), 65(1) and 66(1)

***Subject:*** Energy Efficiency Budgets and Targets for 2019-2020.

***Purpose:*** To approve KEDNY's Energy Efficiency Portfolio Budgets and Targets for 2019-2020.

***Substance of final rule:*** The Commission, on March 15, 2018, adopted an order approving The Brooklyn Union Gas Company d/b/a National Grid's Energy Efficiency Portfolio Budgets and Targets for 2019-2020, as well as operational rules for this portfolio, subject to the terms and conditions set forth in the order.

***Final rule as compared with last published rule:*** No changes.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

***Assessment of Public Comment***

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0252SA26)

## NOTICE OF ADOPTION

**ESCO Eligibility**

**I.D. No.** PSC-40-17-00005-A

**Filing Date:** 2018-03-16

**Effective Date:** 2018-03-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** On 3/15/18, the PSC adopted an order suspending Flanders Energy LLC's (Flanders) ability to market to and enroll new residential and non-residential customers.

***Statutory authority:*** Public Service Law, sections 4, 65 and 66

***Subject:*** ESCO eligibility.

***Purpose:*** To suspend Flanders' ability to market to and enroll new residential and non-residential customers.

***Substance of final rule:*** The Commission, on March 15, 2018, adopted an order suspending Flanders Energy LLC's (Flanders) ability to market to and enroll new residential and non-residential customers. Flanders is directed to implement and follow all improvements identified in its October 6, 2017, and October 23, 2017 filings and shall report to the Department of Public Service, the detailed results of its investigation for each customer complaint sent to it by the Department. Flanders is also directed to refund any overcharges, in full to each customer that Flanders enrolled without proper authorization, in accordance with UBP § 5.K.2 and to provide the refund calculations and verification that the refund occurred to Staff within 90 days of this Order for existing slamming claims and within 30 days of the date of the slamming claim for claims received after the date of this Order, subject to the terms and conditions set forth in the order.

***Final rule as compared with last published rule:*** No changes.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

***Assessment of Public Comment***

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(17-M-0415SA1)

## NOTICE OF ADOPTION

**Request for Maintenance Support**

**I.D. No.** PSC-42-17-00007-A

**Filing Date:** 2018-03-19

**Effective Date:** 2018-03-19

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** On 3/15/18, the PSC adopted an order approving Ampersand Kayuta Lake Hydro, LLC's (Kayuta Lake) request for financial support for its 460 kW hydroelectric facility in Boonville, New York, under the Tier 2 Program in the Renewable Energy Standard (RES).

***Statutory authority:*** Public Service Law, sections 4(1), 5(1), (2), 66(2); Energy Law, section 6-104(5)(b)

***Subject:*** Request for maintenance support.

***Purpose:*** To approve Kayuta Lake's request for financial support under the RES Tier 2 Porgram.

***Substance of final rule:*** The Commission, on March 15, 2018, adopted an order approving Ampersand Kayuta Lake Hydro, LLC's (Kayuta Lake) request for financial support for its 460 kW hydroelectric facility in Boonville, New York, under the Tier 2 "Maintenance Tier" Program in the Renewable Energy Standard (RES). Kayuta Lake is offered a three-year Tier 2 maintenance resource contract under the RES with a maintenance award of $18.30 per MWh on up to 1,897 MWh of energy generated annually at its facility. The three-year term to begin either January 1, 2018 or the month following the completion of the capital projects included in its application, whichever is later. Kayuta Lake is directed to provide the New York State Energy and Research Development Authority (NYSERDA) and Department of Public Service Staff with necessary documentation, including but not limited to, invoices, engineer's reports, or certification from either state or federal agencies to support the capital expenditures described in its application. Kayuta Lake is also directed to provide written notice of its decision whether or not to accept the offer to the Secretary to the Commission within 30 days after the date of issuance of this Order. Failure to timely file the notice shall be deemed a decision by Kayuta Lake to decline this offer. NYSERDA is authorized to enter into a separate RES maintenance resource contract with Kayuta Lake, as described in the body of this Order and is authorized to use uncommitted Systems Benefits Charge, Energy Efficiency Portfolio Standard and Renewable Portfolio Standard program funds for payments of the Tier 2 maintenance resource contracts for Kayuta Lake, subject to the terms and conditions set forth in the order.

***Final rule as compared with last published rule:*** No changes.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

***Assessment of Public Comment***

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(17-E-0603SA2)

## NOTICE OF ADOPTION

### Request for Maintenance Support

**I.D. No.** PSC-42-17-00008-A

**Filing Date:** 2018-03-19

**Effective Date:** 2018-03-19

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** On 3/15/18, the PSC adopted an order approving Ampersand Chasm Falls Hydro, LLC's (Chasm Falls) request for financial support for its 1.6 MW hydroelectric facility in Chateaugay, New York, under the Tier 2 Program in the Renewable Energy Standard (RES).

***Statutory authority:*** Public Service Law, sections 4(1), 5(1), (2), 66(2); Energy Law, section 6-104(5)(b)

***Subject:*** Request for maintenance support.

***Purpose:*** To approve Chasm Falls' request for financial support under the RES Tier 2 Porgram.

***Substance of final rule:*** The Commission, on March 15, 2018, adopted an order approving Ampersand Chasm Falls Hydro, LLC's (Chasm Falls) request for financial support for its 1.6 MW hydroelectric facility in Chateaugay, New York, under the Tier 2 "Maintenance Tier" Program in the Renewable Energy Standard (RES). Chasm Falls is offered a three-year Tier 2 maintenance resource contract under the RES with a maintenance award of $12.30 per MWh on up to 6,040 MWh of energy generated annually at its facility. The three-year term to begin either January 1, 2018 or the month following the completion of the capital projects included in its application, whichever is later. Chasm Falls is directed to provide the New York State Energy and Research Development Authority (NYSERDA) and Department of Public Service Staff with necessary documentation, including but not limited to, invoices, engineer's reports, or certification from either state or federal agencies to support the capital expenditures described in its application. Chasm Falls is also directed to provide written notice of its decision whether or not to accept the offer to the Secretary to the Commission within 30 days after the date of issuance of this Order. Failure to timely file the notice shall be deemed a decision by Chasm Falls to decline this offer. NYSERDA is authorized to enter into a separate RES maintenance resource contract with Chasm Falls, as described in the body of this Order and is authorized to use uncommitted Systems Benefits Charge, Energy Efficiency Portfolio Standard and Renewable Portfolio Standard program funds for payments of the Tier 2 maintenance resource contracts for Chasm Falls, subject to the terms and conditions set forth in the order.

***Final rule as compared with last published rule:*** No changes.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

***Assessment of Public Comment***

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(17-E-0603SA1)

## NOTICE OF ADOPTION

### Tier 2 of the RES

**I.D. No.** PSC-45-17-00005-A

**Filing Date:** 2018-03-16

**Effective Date:** 2018-03-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** On 3/15/18, the PSC adopted an order modifying Tier 2 of the Renewable Energy Standard (RES) Program to improve the programs capacity to support existing baseline resources, when necessary.

***Statutory authority:*** Public Service Law, sections 4(1), 5(1), (2), 66(2); Energy Law, section 6-104(5)(b)

***Subject:*** Tier 2 of the RES.

***Purpose:*** To adopt modifications to Tier 2 of the RES, improving capacity to support existing baseline resources.

***Substance of final rule:*** The Commission, on March 15, 2018, adopted an order modifying Tier 2 of the Renewable Energy Standard (RES) Program to improve the programs capacity to support existing baseline resources, when necessary. The following changes shall be implemented to the existing renewable maintenance program: i) expansion of eligibility to include eligible facilities in operation prior to January 1, 2015, and establishment of delivery requirements consistent with those for Tier 1; ii) size increase of eligible hydroelectric facilities from 5 MW to 10 MW; iii) revision of the to-go-cost standard; iv) establishment of a streamlined review process, in addition to maintenance of a more detailed review process to suit the various needs of individual facilities; v) establishment of a standard contract term of three years with the potential for contract renewals, subject to the terms and conditions set forth in the order.

***Final rule as compared with last published rule:*** No changes.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

***Assessment of Public Comment***

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-E-0302SA30)

## NOTICE OF ADOPTION

### Financing Petition

**I.D. No.** PSC-48-17-00017-A

**Filing Date:** 2018-03-19

**Effective Date:** 2018-03-19

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** On 3/15/18, the PSC adopted an order approving, subject to conditions, New York State Electric & Gas Corporation (NYSEG) to issue up to $1.256 billion of long-term debt, preferred stock and hybrid securities not later than December 31, 2022.

***Statutory authority:*** Public Service Law, section 69

***Subject:*** Financing petition.

***Purpose:*** To approve NYSEG to issue up to $1.256 billion of long-term debt, preferred stock and hybrid securities.

***Substance of final rule:*** The Commission, on March 15, 2018, adopted an order approving, subject to conditions, New York State Electric & Gas Corporation (NYSEG) to issue up to $1.256 billion of long-term debt, preferred stock and hybrid securities not later than December 31, 2022, subject to the terms and conditions set forth in the order.

***Final rule as compared with last published rule:*** No changes.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

***Assessment of Public Comment***

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(17-M-0659SA1)

## NOTICE OF ADOPTION

### CCA Program

**I.D. No.** PSC-50-17-00016-A

**Filing Date:** 2018-03-16

**Effective Date:** 2018-03-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** On 3/15/18, the PSC adopted an order approving, with modifications, Joule Assets, Inc.'s (Joule) proposed Community Choice Aggregation (CCA) Program.

***Statutory authority:*** Public Service Law, sections 5(1), (2), 53, 65 and 66

***Subject:*** CCA Program.

***Purpose:*** To approve, with modifications, Joule's CCA Program.

***Substance of final rule:*** The Commission, on March 15, 2018, adopted an order approving, with modifications, Joule Assets, Inc.'s (Joule) proposed Community Choice Aggregation (CCA) Program. Specifically, the Commission approves Joule's Master Implementation Plan (IP), with conditions; acknowledges the certifications of local authorizations; and approves Joule's Data Protection Plan (DPP), consistent with the requirements of the Data Security Agreement (DSA), as established in the Order Approving Community Choice Aggregation Program and Utility Data Security Agreement with Modifications, issued October 19, 2017 in Cases 16-M-0015 and 14-M-0224 (MEGA Order). Joule is directed to file an updated Master IP and the final DPP within 60 days of the issuance of this Order. Joule is authorized to implement its Community Choice Aggregation Program, consistent with the terms of this Order, as soon as it has completed the requirements in Ordering Clause numbers 1 and 2 and has entered a Data Security Agreement with the relevant utility or utilities, subject to the terms and conditions set forth in the order.

***Final rule as compared with last published rule:*** No changes.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

***Assessment of Public Comment***

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(14-M-0224SA16)

## NOTICE OF ADOPTION

### Administrative Costs and Funding Sources for the Renewable Energy Standard and Zero-Emissions Credit Program

**I.D. No.** PSC-50-17-00020-A

**Filing Date:** 2018-03-16

**Effective Date:** 2018-03-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** On 3/15/18, the PSC adopted an order approving New York State Energy Research and Development Authority's (NYSERDA) petition for an administration budget associated with the 2018 Clean Energy Standard (CES).

***Statutory authority:*** Public Service Law, sections 4(1), 5(1), (2), 66(2); Energy Law, section 6-104(5)(b)

***Subject:*** Administrative costs and funding sources for the Renewable Energy Standard and Zero-Emissions Credit program.

***Purpose:*** To approve NYSERDA's petition for an administration budget associated with the 2018 CES.

***Substance of final rule:*** The Commission, on March 15, 2018, adopted an order approving New York State Energy Research and Development Authority's (NYSERDA) petition for an administration budget associated with the 2018 Clean Energy Standard (CES). NYSERDA is authorized to expend up to $4,100,000 for Salary and Overhead, New York State Cost Recovery Fee (CRF), Renewable Energy Standard (RES)/Zero-Emission Credit (ZEC) Technical Support and RES System Development for the RES program expenses through December 31, 2018 and $4,921,000 for Salary and Overhead, and CRF for the ZEC program expenses through March 31, 2019. NYSERDA is also authorized to repurpose up to $2,760,330 of previously authorized, but unspent System Benefits Charge (SBC), Energy Efficiency Portfolio Standard (EEPS), and/or Renewable Portfolio Standard (RPS) funds from the 2017 compliance period. NYSERDA is further authorized to repurpose up to $7,104,659 of additional uncommitted SBC, EEPS, and/or RPS funds for the 2018 compliance period RES and ZEC program administrative costs. NYSERDA is directed to reconcile any variance between the actual 2017 ZEC compliance period expenses and the forecasted 2017 ZEC compliance period expenses as part of the ZEC reconciliation and continue to file quarterly reports containing itemized expenses associated with administration of the RES and ZEC programs, subject to the terms and conditions set forth in the order.

***Final rule as compared with last published rule:*** No changes.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

***Assessment of Public Comment***

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-E-0302SA31)

## NOTICE OF ADOPTION

### Waiver Request

**I.D. No.** PSC-52-17-00017-A

**Filing Date:** 2018-03-19

**Effective Date:** 2018-03-19

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** On 3/15/18, the PSC adopted an order approving PSEG Long Island LLC's (PSEG-LI) motion to waive certain Commission regulations relating to Public Service Law Article VII applications.

***Statutory authority:*** Public Service Law, sections 4 and 122

***Subject:*** Waiver request.

***Purpose:*** To approve PSEG-LI's motion to waive certain Commission regulations relating to PSC Article VII applications.

***Substance of final rule:*** The Commission, on March 15, 2018, adopted an order approving PSEG Long Island LLC's motion on behalf of and as agent for the Long Island Lighting Company d/b/a LIPA to waive certain Commission regulations relating to Public Service Law Article VII applications, subject to the terms and conditions set forth in the order.

***Final rule as compared with last published rule:*** No changes.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

***Assessment of Public Comment***

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(17-T-0752SA1)

## NOTICE OF ADOPTION

### Petition for Clarification

**I.D. No.** PSC-01-18-00010-A
**Filing Date:** 2018-03-19
**Effective Date:** 2018-03-19

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** On 3/15/18, the PSC adopted an order approving National Fuel Gas Distribution Corporation's (NFG) petition for expedited clarification of the Order Authorizing Issuance of Securities, issued on November 17, 2017.

***Statutory authority:*** Public Service Law, section 69

***Subject:*** Petition for clarification.

***Purpose:*** To approve NFG's petition for expedited clarification of the November 2017 Order Authorizing Issuance of Securities.

***Substance of final rule:*** The Commission, on March 15, 2018, adopted an order approving National Fuel Gas Distribution Corporation's petition for expedited clarification of the Order Authorizing Issuance of Securities, issued on November 17, 2017, subject to the terms and conditions set forth in the order.

***Final rule as compared with last published rule:*** No changes.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

***Assessment of Public Comment***

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(17-G-0414SA2)

## NOTICE OF ADOPTION

### Petition for a Waiver of the Prohibition on Service to Low-Income Customers by ESCOs

**I.D. No.** PSC-02-18-00005-A
**Filing Date:** 2018-03-16
**Effective Date:** 2018-03-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** On 3/15/18, the PSC adopted an order approving New Wave Energy Corporation's (New Wave) petition for a waiver of the prohibition on service to low-income customers by energy service companies (ESCOs).

***Statutory authority:*** Public Service Law, sections 5(1)(b), 65(1), (2), (3), 66(1), (2), (3), (5) and (8)

***Subject:*** Petition for a waiver of the prohibition on service to low-income customers by ESCOs.

***Purpose:*** To approve New Wave's petition for a waiver of the prohibition on service to low-income customers by ESCOs.

***Substance of final rule:*** The Commission, on March 15, 2018, adopted an order approving New Wave Energy Corporation's (New Wave) petition for a waiver of the Order Adopting a Prohibition on Service to Low-Income Customers by Energy Service Companies (ESCOs), issued December 16, 2016. New Wave is directed to report to Department of Public Service Staff semi-annually on the status of its compliance with the December 2016 Order, subject to the terms and conditions set forth in the order.

***Final rule as compared with last published rule:*** No changes.

***Text of rule may be obtained from:*** John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

***Assessment of Public Comment***

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(12-M-0476SA31)

## PROPOSED RULE MAKING
## NO HEARING(S) SCHEDULED

### Terms of a Service Agreement and Waiver of Tariff Provisions

**I.D. No.** PSC-14-18-00004-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

***Proposed Action:*** The Commission is considering the petition of Saratoga Water Services, Inc. regarding the terms of a service agreement and for a waiver of tariff provisions.

***Statutory authority:*** Public Service Law, sections 4(1), 89-b and 89-c

***Subject:*** Terms of a service agreement and waiver of tariff provisions.

***Purpose:*** To consider Saratoga Water's requested terms of a service agreement and tariff waivers.

***Substance of proposed rule:*** The Commission is considering a petition filed on March 8, 2018 by Saratoga Water Services, Inc. (Saratoga) and Saratoga BLVD. Apartments, Inc. (SBA) (collectively, the Petitioners). The petition regards the extension of water service by Saratoga outside of its existing service territory to a development owned by SBA under an agreement between Saratoga and SBA dated June 5, 2014. After a previous petition regarding this same agreement, filed in Case 14-W-0220 on June 18, 2014, the Commission issued a Declaratory Ruling Regarding Extension of Service Agreement (Ruling) on October 23, 2014. The ruling found that the agreement is reasonable and in the public interest. It also stated that the Petitioners could apply for the waivers necessary to effectuate the agreement after obtaining necessary approvals from the Department of Environmental Conservation. Those approvals have been received. The March 8, 2018 petition requests issuance of an Order: (a) approving the terms and conditions of the agreement; (b) waiving Saratoga's tariff provisions to the extent they are inconsistent with the agreement; and (c) waiving the applicability of the provisions of 16 NYCRR Parts 501 and 502 to the extent they are inconsistent with the agreement. The full text of the petition may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

***Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact:*** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

***Data, views or arguments may be submitted to:*** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

***Public comment will be received until:*** 60 days after publication of this notice.

***Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement***

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(14-W-0220SP1)

## PROPOSED RULE MAKING
## NO HEARING(S) SCHEDULED

### Transfer of Certain Street Lighting Facilities

**I.D. No.** PSC-14-18-00005-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

***Proposed Action:*** The Public Service Commission is considering a petition filed by Niagara Mohawk Power Corporation d/b/a National Grid for the transfer of its street lighting facilities located in the Chautauqua Utility District to the Chautauqua Utility District.

***Statutory authority:*** Public Service Law, section 70

***Subject:*** Transfer of certain street lighting facilities.

***Purpose:*** To consider the transfer of certain street lighting facilities located in the Chautauqua Utility District.

***Substance of proposed rule:*** The Public Service Commission (Commission) is considering a petition filed by Niagara Mohawk Power Corporation d/b/a National Grid (National Grid) on March 14, 2018, requesting approval to transfer certain street lighting facilities located in the Chautauqua Utility District, Chautauqua, NY to the Chautauqua Utility District. The original book cost of the facilities was approximately $153,988 and the netbook value is $65,826 based on plant records, as of December 31, 2017. The total purchase price for the facilities shall be approximately $84,718. The full text of the petition may be viewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject, or modify, in whole or in part, the relief proposed and may resolve related matters.

***Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact:*** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

***Data, views or arguments may be submitted to:*** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

***Public comment will be received until:*** 60 days after publication of this notice.

***Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement***

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-E-0152SP1)

## PROPOSED RULE MAKING
## NO HEARING(S) SCHEDULED

### Petition for Abandonment

**I.D. No.** PSC-14-18-00006-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

***Proposed Action:*** The Commission is considering a petition filed by Willsboro Bay Water Company to abandon its seasonal water system.

***Statutory authority:*** Public Service Law, sections 4(1), 5(1)(f), 89-c(1), (10) and 89-h

***Subject:*** Petition for abandonment.

***Purpose:*** To consider the abandonment of Willsboro Bay Water Company's water system.

***Substance of proposed rule:*** The Commission is considering a petition filed by Willsboro Bay Water Company (Willsboro Bay or Company) on February 22, 2018, to abandon its seasonal water system. Willsboro Bay provides seasonal water service to 28 customers in the Town of Willsboro in Essex County. The Company states that it is unable to continue operation of the water system and to meet the recently enacted requirements of the New York State Department of Health regarding system oversight and water quality monitoring, and therefore requests approval to abandon the system. The full text of the petition may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

***Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact:*** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

***Data, views or arguments may be submitted to:*** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

***Public comment will be received until:*** May 21, 2018.

***Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement***

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-W-0128SP1)

## PROPOSED RULE MAKING
## NO HEARING(S) SCHEDULED

### An Offshore Wind Generating Facilities Program

**I.D. No.** PSC-14-18-00007-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

***Proposed Action:*** The Commission is considering the adoption of a regulatory program to encourage the procurement of electricity from new offshore wind generating facilities by New York State consumers.

***Statutory authority:*** Public Service Law, sections 5(2), 65(1), 66(1), (2), (3), (4), (5) and (12)

***Subject:*** An offshore wind generating facilities program.

***Purpose:*** To promote offshore wind generating facilities and to reduce greenhouse gas emissions.

***Substance of proposed rule:*** The Public Service Commission (Commission) is considering the adoption of a regulatory program to encourage the procurement of electricity from new offshore wind generating facilities by New York State consumers. This includes, in part, consideration of an "Offshore Wind Policy Options Paper" (Options Paper) filed by the New York State Energy Research and Development Authority (NYSERDA) on January 29, 2018, which provides an assessment of alternatives for addressing a wide range of policy issues pertinent to the deployment of offshore wind energy.

As a component of the regulatory program, the Commission is considering adopting a goal that the quantity of electricity supplied by renewable resources and consumed in New York State be increased by the output of 2,400 MWs of new offshore wind generation facilities by 2030 as part of a strategy to reduce statewide greenhouse gas emissions by 40% by 2030. The goal under consideration is based on contributions towards achievement of the goal by each New York Load Serving Entity (LSE) serving retail customers, including the non-jurisdictional Long Island Power Authority (LIPA) and New York Power Authority (NYPA).

As a Phase 1 component of the regulatory program, the Commission is considering the adoption of a requirement to jump-start the deployment of offshore wind resources to serve New York consumers by requiring each New York LSE to serve their retail customers by procuring new offshore wind resources, evidenced by the competitive procurement of qualifying Offshore-wind Renewable Energy Credits (ORECs), obtained in solicitations to be conducted in 2018 and 2019 to procure the annual renewable energy attributes associated with up to 800 MWs of new offshore wind generation facilities.

Phase 1 Competitive Solicitations

Sufficient competitive solicitations would be conducted by NYSERDA, LIPA and/or NYPA in 2018 and 2019, in cooperation with each other, to obtain in total the intended 800 MWs. The quantity of MWs that is procured by each soliciting entity towards the 800 MWs need not be limited to the proportional share of retail load to be served, but instead could be based on quantities deemed efficient for each particular solicitation. Solicitations conducted by NYSERDA would be for the procurement of ORECs only and would have 25-year contract terms. Contracts awarded by NYSERDA, in its discretion, could be flexible as to quantity purchased to be tailored to the capacity of interconnection points, or to promote other efficiency factors such as economies of scale. LIPA and/or NYPA could agree to have NYSERDA obtain a share of ORECs for them through NYSERDA's solicitations, or could conduct their own solicitations. If LIPA and/or NYPA conduct their own solicitations, they would be free to establish their own OREC procurement options and methodologies, including, but not limited to, the combined procurement of ORECs, energy, and capacity.

Phase 1 Offshore Wind Project Eligibility

Eligibility would be limited to offshore wind electric generation facilities, located in ocean waters of the United States, that become operational on or after January 1, 2015; that deliver their electric energy into the New York Control Area for consumption by New York consumers, either by direct generator lead into New York or by transmission across adjacent control areas into New York; that upon submission of a bid have already obtained a lease for the offshore ocean site from the U.S. Bureau of Ocean Management (BOEM); and that are located a minimum distance from shore necessary to minimize visual impacts from land, to be pre-determined by the Commission. The Commission is considering whether the minimum distance should be 20 statute miles, or some lesser or greater minimum distance. In addition, eligibility requirements regarding project labor agreements and prevailing wage requirements could be included in solicitations by NYSERDA, in its discretion, after consultation with Staff of the Department of Public Service.

Phase 1 NYSERDA Bid Scoring and Contracts

NYSERDA would score competitive bids by giving a relative weight of 70% accorded to price, 25% to economic benefits, and 5% to project viability. NYSERDA, in its discretion, would establish the criteria for scoring economic benefits and project viability for each solicitation. In addition, criteria regarding project labor agreements and prevailing wage requirements could be included in the scoring of economic benefits by NYSERDA, in its discretion, after consultation with Staff of the Department of Public Service. NYSERDA would impose a maximum upset price as a cost containment measure, and would always have authority to reject all bids. Contract language and contract requirements, such as construction and in-service milestones and deadlines, bid bonds, cash bonds, and other contract security arrangements would be left to NYSERDA's discretion.

Phase 1 NYSERDA Procurement Options

The Commission is considering a number of options for NYSERDA's procurement of ORECs, as listed below. A number of these options are further detailed in the Options Paper, along with NYSERDA's assessment of the associated benefits and costs, legal risks and implications, and other considerations.

1. Fixed OREC

Under this approach, winning projects would receive a fixed as-bid OREC price throughout the contract lifetime. Each OREC would represent the renewable attributes associated with 1 MWh of electricity generated. This is similar to the Commission's approach used for Tier 1 of the Renewable Energy Standard.

2. Market OREC

Under this option, NYSERDA would purchase ORECs at a price that would vary over the life of the contract based on the net difference, from time to time, between the project's winning Strike Price bid and the actual revenue the project was able to achieve from its energy and capacity sales, whether in the regulated wholesale markets or through other transactions such as bilateral sales. Offshore wind generators would be required to report to NYSERDA their actual revenues received from selling energy and capacity. To determine the net amount paid to the generator (Market OREC Price), NYSERDA would deduct from the Strike Price the actual revenues received by the offshore wind generator from selling energy and capacity.

3. Index OREC

Under this option, NYSERDA would purchase ORECs at a price that would vary over the life of the contract based on the net difference, from time to time, between the project's winning Strike Price bid and a reference price equivalent to the compensation that a generic, average project might receive. Such reference price would be an average energy and capacity market price, as expressed in a market index or composite of indices (Reference Price), whether the project sold its energy and capacity into the regulated wholesale markets or not. NYSERDA would derive the Reference Price from an index or composite index of prices cleared within a particular New York Control Area zone, which zone may or may not be the zone into which the project sells its energy and capacity. The Reference Price would be comprised of average energy and capacity values within that zone for a period of time prior to the calculation of the reference price, such as a month, reflective of a time period for such generation, but not the actual prices received by the generator (which may have been impacted during that period of time, even in the same zone, by time-of-day and other factors). To determine the net amount paid to the generator (Index OREC Price), NYSERDA would deduct from the Strike Price the Reference Price.

4. Forward OREC

Under this option, NYSERDA would purchase ORECs at a price that would vary at set periods of time, such as every two years over the life of the contract, based on the net difference, recalculated every two years, between the project's winning Strike Price bid and the price of two-year energy and capacity price forecasts or forward indices as expressed in a forward composite of indices (Forward Price) within a particular zone, whether the project sold its energy and capacity into the regulated wholesale markets or not, and in that particular zone or not. Either upward or downward adjustments to the OREC price of each tranche would be calculated prior to the beginning of each tranche period according to energy and capacity price forecasts or forward indices matching the tranche period, and would remain fixed for the duration of the tranche period of time. Such prices would then be recalculated thereafter, at the end of every tranche period, in the same manner. To determine the net amount paid to the generator (Forward OREC Price), NYSERDA would deduct from the Strike Price the Forward Price.

5. Fixed/Index OREC

Under this option, NYSERDA would purchase ORECs at a fixed price, as bid, for an initial period of time, such as two years, and a price would be set thereafter that varies based on an Index. The price would then vary at set periods of time, such as every two years over the life of the contract, based on the net difference, recalculated every two years, between the project's initial bid price (Bid Price) and the change in the price of two-year energy and capacity price forecasts or forward indices as expressed in a forward composite of indices (Forward Price) within a particular zone, whether the project sold its energy and capacity into the regulated wholesale markets or not, and in that particular zone or not. Either upward or downward adjustments to the OREC price of each tranche would be calculated prior to the beginning of each tranche period according to energy and capacity price forecasts or forward indices matching the tranche period, and would remain fixed for the duration of the tranche period of time. Such prices would then be recalculated thereafter, at the end of every tranche period, in the same manner. To determine the net amount paid to the generator (Fixed/Index OREC Price), NYSERDA would deduct or add from the Bid Price the change in the Forward Price.

6. Capped OREC

Under this option, NYSERDA would purchase ORECs at a fixed price, as bid, for an initial period of time, such as two years, and a price would be set thereafter that varies based on an Index. The price would then vary at set periods of time, such as every two years over the life of the contract, based on the net difference, recalculated every two years, between the project's initial bid price (Bid Price) and the change in the price of two-year energy and capacity price forecasts or forward indices as expressed in a forward composite of indices (Forward Price) within a particular zone, whether the project sold its energy and capacity into the regulated wholesale markets or not, and in that particular zone or not. Either upward or downward adjustments to the OREC price of each tranche would be calculated prior to the beginning of each tranche period according to energy and capacity price forecasts or forward indices matching the tranche period, and would remain fixed for the duration of the tranche period of time, except at no time would the resultant OREC price exceed the original Bid Price. Such prices would then be recalculated thereafter, at the end of every tranche period, in the same manner. To determine the net amount paid to the generator (Capped OREC Price), NYSERDA would deduct or add from the Bid Price the change in the Forward Price, except at no time would the resultant OREC price exceed the original Bid Price.

7. Other Options

The Commission will also consider other options that may include certain aspects and variations of the procurement options identified above.

Phase 1 Annual OREC Purchases by LSEs

Under each procurement option listed above, NYSERDA would purchase the ORECs, on behalf of the LSEs, and then resell them to the LSEs for compliance with the LSEs' obligation. Each LSE would be required to enter into a contractual relationship with NYSERDA to periodically purchase ORECs during a program year balanced in a reconciliation process so that the quantity of ORECs purchased by the LSE during the program year equals the LSE's proportional share of the total number of ORECs purchased by NYSERDA. The proportional share of each LSE would be based on the quantity of retail sales load served by the LSE during the program year. Phase 1 ORECs would not be tradable by LSEs except with NYSERDA.

NYSERDA's reasonable administrative costs and cost recovery fee costs would be recoverable from LSEs as an OREC price adder, or in some other manner, as would be determined by the Commission.

Phase 2

Shared radial and independently-owned transmission options are reserved for consideration in Phase 2 and would not be considered for the Phase 1 competitive solicitations. The options of incorporating environmental impact criteria other than the minimum distance from land into the eligibility requirements and incorporating environmental impact criteria into the bid scoring calculations are reserved for consideration in Phase 2 and would not be considered for the Phase 1 competitive solicitations.

The full text of the Options Paper and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject, or modify, in whole or in part, the proposed regulatory program to encourage the procurement of electricity from new offshore wind generating facilities by New York State consumers, and may resolve related matters.

***Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact:*** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

***Data, views or arguments may be submitted to:*** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

***Public comment will be received until:*** 60 days after publication of this notice.

***Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement***

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-E-0071SP1)

# Urban Development Corporation

## PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

**Regional Revolving Loan Trust Fund**

**I.D. No.** UDC-14-18-00008-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

***Proposed Action:*** Amendment of Part 4209 of Title 21 NYCRR.

***Statutory authority:*** L. 1987, ch. 839, section 6

***Subject:*** Regional Revolving Loan Trust Fund.

***Purpose:*** Update procedures for the administration of the Regional Revolving Loan Trust Fund program.

***Substance of proposed rule (Full text is posted at the following State website: https://esd.ny.gov/regional-revolving-loan-trust-fund-program):*** This rulemaking amends Part 4209 of Title 21 of the NYCRR as follows:

1) Section 4209.2 is amended to define the terms "interest repayment account" and "loan fund account," which terms refer separate accounts regional corporations must maintain for the purposes of deferring administrative expenses and making loans to qualifying businesses, respectively.

2) Section 4209.2 is further amended to expand the definition of "working capital loans" to include loans by regional corporations to qualifying businesses for the purpose of acquiring machinery or equipment.

3) Section 4209.3 is repealed, and sections 4209.4 – 4209.10 are renumbered as sections 4209.3 – 4209.9.

4) The new section 4209.3 is amended to allow the Urban Development Corporation ("UDC") to select as many regional corporations as is practicable through multiple competitive processes, rather than a maximum of three regional corporations through a single request for proposals covering all areas of the state.

5) Section 4209.3 is further amended to describe how the UDC will allocate program funds among the various regions of the state.

6) The new section 4209.4 is amended to allow regional corporations to administer the respective program funds they are awarded, rather than requiring them to remit all funds to UDC for management.

7) Section 4209.4 is further amended to permit regional corporations to make larger loans, amounting to a greater maximum share of project cost, to eligible businesses.

8) The new sections 4209.5, 4209.6, and 4209.7 are amended to correct cross-references.

9) Section 4209.7 is further amended to permit regional corporations to make loans and loan guarantees, upon UDC's approval, from funds managed by the regional corporations, rather than requiring UDC to transmit funds for each individual loan or guarantee to be made by each regional corporation.

10) The new section 4209.8 is amended to require regional corporations to submit semi-annual, rather than annual, reports to UDC on their program activities.

11) Section 4209.8 is further amended to omit references to reporting requirements of UDC which are inconsistent with the provisions of section 16-a of the Urban Development Corporation Act.

12) The new section 4209.9 is amended to allow regional corporation to maintain separate loan fund and interest repayment accounts, and to use the proceeds of interest repayment accounts to defer expenses incurred in the administration of the program.

***Text of proposed rule and any required statements and analyses may be obtained from:*** Phillip Harmonick, New York State Urban Development Corporation, 625 Broadway, Albany, NY 12207, (518) 292-5122, email: Phillip.Harmonick@esd.ny.gov

***Data, views or arguments may be submitted to:*** Thomas Regan, New York State Urban Development Corporation, 625 Broadway, Albany, NY 12207, (518) 292-5122, email: Thomas.Regan@esd.ny.gov

***Public comment will be received until:*** June 3, 2018.

***Regulatory Impact Statement***

STATUTORY AUTHORITY:

Chapter 839 of the Laws of 1987 established the Regional Revolving Loan Trust Fund Program ("RRLTF"), codified in section 16-a of the Urban Development Corporation Act, and required the Urban Development Corporation (the "UDC") to promulgate regulations establishing procedures for the administration of RRLTF. These procedures include the process for designating regional corporations to identify and provide assistance to eligible businesses, the management of program funds by regional corporations, the terms under which regional corporations may make loans or provide loan guarantees to eligible businesses, and the reporting requirements of regional corporations. This regulatory impact statement is submitted in conjunction with an amended version of the previously promulgated regulations to conform the regulations to the requirements of section 16-a of the UDC Act, reduce administrative burdens on regional corporations associated with RRLTF participation, and allow regional corporations to provide greater assistance to eligible businesses.

LEGISLATIVE OBJECTIVES:

The proposed rule gives effect to the intention of the legislature in RRLTF to make loans for working capital, revolving lines of credit, machinery and equipment, and seasonal inventory reasonably available to small businesses throughout the state.

NEEDS AND BENEFITS:

The rulemaking will eliminate unnecessary restrictions in the existing regulations that are frustrating program participation. Currently, the UDC administers all RRLTF program funds. Participating regional corporations must request transfers of principal from the UDC to make financial assistance available to eligible businesses, remit repayments of principal and interest from businesses to the UDC, and request disbursements from the UDC to defer any administrative costs, no matter how small. This unnecessarily restrictive framework is barrier to inducing regional corporations to participate in the program, and adds time and processing costs to routine program activities. By allowing regional corporations to manage program funds, while requiring regional corporations to obtain UDC approval before making assistance available to eligible businesses, the UDC will eliminate bottlenecks in program administration while maintaining appropriate oversight over regional corporations.

The proposed rule also eliminates unnecessary restrictions on the amounts of loans and loan guarantees that regional corporations may provide, and allows such regional corporations to provide the maximum assistance permitted under section 16-a of the UDC Act. The proposed rule also amends the RRLTF regulations to conform the reporting requirements to amendments to section 16-a of the UDC Act enacted in the last legislative session.

COSTS:

I. Costs to private regulated parties (regional corporations): None. In fact, the proposed rule will reduce costs to such parties associated with unnecessary disbursements and remittances between regional corporations and the UDC.

II. Costs to the regulating agency for the implementation and continued administration of the rule: None. The UDC anticipates that the cost of administering the RRLTF program will decrease as a result of devoting fewer resources to disbursing funds to and receiving remittances from regional corporations.

III. Costs to the State government: None.

IV. Costs to local governments: None. The proposed rule will not impose any costs on local governments.

LOCAL GOVERNMENT MANDATES:

None. There are no local government mandates associated with the RRLTF program.

PAPERWORK:

The rule will significantly reduce paperwork in connection with disbursements and remittances between the UDC and regional corporations. Although the rule requires regional corporations to report twice annually on program administration rather than once, so as to accommodate the UDC's reporting schedule, this change will simply require the same amount of information to be transmitted to the UDC in smaller packages and will have minimal impact on the total paperwork completed by regional corporations.

DUPLICATION:

The proposed rule amends existing regulations pertaining to the RRLTF program, and does not create any new sections to Part 4209 of Title 21 of the New York Codes, Rules and Regulations. Accordingly, there is no risk of duplication in the adoption of the proposed rule.

ALTERNATIVES:

No alternatives were considered to amending the regulations. The UDC cannot eliminate the abovementioned administrative burdens, or conform the regulations to the recent amendments to section 16-a of the UDC Act, without amending the regulations.

FEDERAL STANDARDS:

There are no federal standards applicable to the RRLTF program; it is purely a state program that provides funds to regional corporations to make loans and loan guarantees to eligible businesses. Therefore, the proposed rule does not exceed any federal standard.

COMPLIANCE SCHEDULE:

The UDC will be able to achieve compliance with the rule as soon as it is adopted. The requirements of the rule will become applicable to regional corporations entering into new agreements with the UDC for program funding.

***Regulatory Flexibility Analysis***

Participation in the Regional Revolving Loan Trust Fund Program ("RRLTF") is entirely at the discretion of regional corporations. Neither statute nor the proposed rule impose any obligation on any local government or business entity to participate in the program. Furthermore, the proposed rule eliminates existing administrative burdens on participating regional corporations associated with requesting funds from the Urban Development Corporation ("UDC") prior to providing any assistance to eligible businesses, remitting repayments of interest and principal by businesses to the UDC, and requesting disbursements from the UDC to defer any administrative costs associated with administering the program.

Because it is evident from the nature of the proposed rule that it will have either no impact or a positive impact on small businesses and local government, no further affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses and local governments is not required and one has not been prepared.

***Rural Area Flexibility Analysis***

The Regional Revolving Loan Trust Fund Program ("RRLTF") makes funds available to regional corporations that will provide loans and loan guarantees to small businesses, and does not distinguish between entities located in rural and urban areas of New York. Furthermore, the rule does not impose reporting, recordkeeping or other compliance requirements on public or private entities in rural areas, except for any regional corporations voluntarily applying to participate in RRLTF. Therefore, the rule will not have a substantial adverse economic impact on rural areas. Accordingly, a rural flexibility analysis is not required and one has not been prepared.

***Job Impact Statement***

The Regional Revolving Loan Trust Fund Program ("RRLTF") provides funds to regional corporations to make loans and provide loan guarantees to eligible businesses. In determining whether a business is eligible for program assistance, a regional corporation must consider whether the project the business proposes to undertake with the proceeds of the loan or loan guarantee is substantially likely to result in the creation or retention of jobs. The rule will not have a substantial adverse impact on jobs and employment opportunities; rather, the program is intended to support business growth. Because it is evident from the nature of the rulemaking that it will have either no impact or a positive impact on job and employment opportunities, no further affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a job impact statement is not required and one has not been prepared.

# Workers' Compensation Board

## NOTICE OF ADOPTION

### Workers' Compensation Board — Option to Self-Insure for Jockey Fund

**I.D. No.** WCB-01-18-00001-A

**Filing No.** 261

**Filing Date:** 2018-03-16

**Effective Date:** 2018-04-04

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

***Action taken:*** Addition of Part 320 to Title 12 NYCRR.

***Statutory authority:*** Workers' Compensation Law, section 117(1); Racing, Pari-Mutuel Wagering and Breeding Law, section 221(6)(b)

***Subject:*** Workers' Compensation Board — Option to Self-Insure for Jockey Fund.

***Purpose:*** Creates the process for the Jockey Fund to self-insure for Workers' Compensation coverage.

***Text or summary was published*** in the January 3, 2018 issue of the Register, I.D. No. WCB-01-18-00001-P.

***Final rule as compared with last published rule:*** No changes.

***Text of rule and any required statements and analyses may be obtained from:*** Heather MacMaster, Workers' Compensation Board, 328 State Street, Office of General Counsel, Schenectady, NY 12305, (518) 486-9564, email: regulations@wcb.ny.gov

***Initial Review of Rule***

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2021, which is no later than the 3rd year after the year in which this rule is being adopted.

***Assessment of Public Comment***

The agency received no public comment.