STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission to Implement Transmission Planning Pursuant to the Accelerated Renewable Energy Growth and Community Benefit Act	**Case 20-E-0197**

RESPONSE OF MULTIPLE INTERVENORS

(I.D. No. PSC-04-22-00005-P)

Dated: March 28, 2022

MULTIPLE INTERVENORS
540 BROADWAY, P.O. BOX 22222
ALBANY, NEW YORK 12201-2222

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PRELIMINARY STATEMENT

Multiple Intervenors, an unincorporated association of over 50 large industrial, commercial, and institutional energy consumers with manufacturing and other facilities located throughout New York State, including the New York State Electric & Gas Corporation ("NYSEG") service territory, hereby submits its Response to the "Petition of New York State Electric & Gas Corporation for Approval of Phase 1 Local Transmission Projects and Associated Cost Recovery" ("Petition"), which was filed with the New York State Public Service Commission ("Commission") on December 23, 2021, in Case 20-E-0197, *Proceeding on Motion of the Commission to Implement Transmission Planning Pursuant to the Accelerated Renewable Energy Growth and Community Benefit Act*. For the reasons set forth below, Multiple Intervenors has concerns regarding the Petition that warrant careful evaluation by the Commission. In response to Multiple Intervenors' concerns, the Commission should deny the Petition or, alternatively, modify the relief sought therein to eliminate or reduce the resulting near-term and long-term rate impacts to NYSEG's electric customers.

On November 19, 2020, the Commission issued an order adopting, with limited modifications, the terms of the Joint Proposal negotiated in NYSEG's most recent electric and gas rate proceedings that was executed by the utility and numerous other parties, including New York State Department of Public Service Staff ("DPS Staff") and Multiple Intervenors.[1] The adopted Joint Proposal provided NYSEG with substantial electric delivery rate relief at customer expense; to wit: (a) $45.3 million (6.1%) in the first rate year (May 1, 2020 through April 30, 2021); (b)

[1] Cases 19-E-0378 and 19-G-0379, *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of New York State Electric Gas Corporation for Electric and Gas Service*, Order Approving Electric and Gas Rate Plans in Accord with Joint Proposal, With Modifications (issued and effective November 19, 2020) (hereinafter, "2020 Rates Order").

$45.6 million (5.9%) in the second rate year (May 1, 2021 through April 30, 2022); and (c) $36.0 million (4.2%) in the third rate year (May 1, 2022 through April 30, 2023).[2]

In addition to substantial electric rate relief, the Joint Proposal provided for large amounts of electric capital expenditures; to wit: (a) $420.463 million in 2020; (b) $544.533 million in 2021; (c) $589.983 million on 2022; and (d) $574.564 million in 2023.[3] When those capital projects – with a total budget just under $2.13 billion – have been completed pursuant to the Joint Proposal, NYSEG will be entitled to earn a return of and on its investments, which will place upward pressure on future electric rates.

Now, barely 13 months after the 2020 Rates Order was issued, NYSEG filed the Petition seeking authorization to expend even more on electric capital projects, and for approval of associated deferrals and potential surcharge recoveries from customers. Specifically, the Petition requests that the Commission authorize NYSEG to: (a) continue the accelerated development of 23 Phase 1 local transmission projects (collectively, the "Projects") at an incremental cost of $1.944 billion; (b) defer the recovery of costs associated with the Projects to be "undertaken through base rates commencing in its next rate proceeding and continuing in future rate cases as necessary"; and (c) potentially impose an interim surcharge on customers to provide recovery of costs if it is found that "one or more approved Projects could be placed into service in advance of when cost recovery would be allowed under the rate plan then in effect." (Petition at

[2] *See* Cases 19-E-0378 and 19-G-0379, *supra*, 2020 Rates Order at 9; *see also id.*, Attachment 1, Joint Proposal (dated May 21, 2020) at 6 (defining the three rate years encompassed in the Joint Proposal). The modifications by the Commission generally lowered the delivery rate increases from even-higher levels, primarily by delaying the recovery of certain costs beyond the rate plan.

[3] *Id.*, 2020 Rates Order, Attachment 1, Joint Proposal at Appendix R, page 1 of 4.

3, 7). Thus, the Petition seeks to implement a near-doubling of NYSEG's negotiated, four-year electric capital budget.

Multiple Intervenors does not possess the resources necessary to evaluate critically each and every capital project proposed by NYSEG in the Petition. For that type of in-depth, technical analysis, Multiple Intervenors – and other customers – rely upon the expertise of DPS Staff. Multiple Intervenors, however, does have three primary concerns related to the Petition.

First, it is not clear that all, or even many or any, of the proposed projects truly are needed at this time. After all, the Petition seeks Commission authorization for capital expenditures on projects that were not selected for inclusion in NYSEG's last electric rate proceeding, nor has a new rate proceeding commenced. Thus, the proposed projects have not been subject to the same level of scrutiny as similar projects advanced in rate case filings. With a new rate filing anticipated in the near-future, it is not clear that the capital projects proposed in the Petition should be evaluated separate and apart from the proposed electric capital projects – and electric delivery rate increases – that will be sought therein by NYSEG.[4]

Second, the proposed projects could expose customers to near-term and long-term rate impacts that are quite concerning. The impacts that would flow from the proposed authorizations should not be evaluated in a vacuum. It only was a little more than a year ago when the Commission authorized material electric rate relief for NYSEG that has been – and will continue to be – borne by customers. As detailed above, the Joint Proposal already provides for almost $2.13 billion in budgeted electric capital expenditures from 2020-2023. Additionally, the Commission previously has imposed tens of billions of dollars in customer-funded expenditures

[4] Given New York's 11-month ratemaking cycle and the scheduled expiration of NYSEG's electric and gas rate plan on April 30, 2023, if the utility desires new delivery rates effective May 1, 2023, it will file its next rate case on or slightly before June 1, 2022.

and collections, including from NYSEG customers, for various clean energy programs and initiatives. Additionally, wholesale energy prices have skyrocketed so far in 2022, and the State still is struggling to recover from the COVID-19 pandemic. Because customer funds are far from limitless, and rising energy costs have significant, negative impacts on economic activity, the Commission needs to ensure that NYSEG's electric rates are shielded from the impacts of capital expenditures that are not truly necessary for safe and reliable electric service.

Finally, it is important that if and when surcharges are imposed on customers, that they be implemented in a fair and equitable manner, consistent with cost causation principles. In its Petition, NYSEG seeks authorization to potentially implement a new, interim surcharge, but does not specify how the costs recovered thereunder would be allocated. If, *arguendo*, an interim surcharge is approved, it should be allocated and recovered in whole or very large part on the basis of demand, consistent with how other transmission and distribution ("T&D") costs are allocated in NYSEG's cost of service studies. In contrast, it would be inequitable, and inconsistent with cost causation principles, to recover a surcharge related to electric capital expenditures on an energy basis.

ARGUMENT

POINT I

THE COMMISSION SHOULD REFRAIN FROM AUTHORIZING EXPENDITURES ON ELECTRIC CAPITAL PROJECTS THAT ARE NOT TRULY NECESSARY AT THIS TIME

The Accelerated Renewable Energy Growth and Community Benefit Act (the "Act") was enacted in 2020. The Act directed the Commission, *inter alia*, to commence a proceeding to establish a distribution and local transmission capital plan for each utility in furtherance of Climate Leadership and Community Protect Act ("CLCPA") targets. Act at § 7(3).

Significantly, however, the Act is not intended to provide the Commission, or the State's electric utilities, with a blank check. Proposed capital projects must be shown to be necessary or appropriate to achieve CLCPA targets. *Id.* Even if a project is determined to be necessary, that does not necessarily require that it be undertaken immediately or in the very-near future. A key intent of the Act is to "enable the state to meet CLCPA targets in an orderly and cost-effective manner." *Id*. at § 7(2).

Multiple Intervenors does not possess the requisite resources to evaluate all of the capital projects proposed in NYESG's Petition. As indicated above, for such evaluation, Multiple Intervenors – and other customers – rely upon the expertise of DPS Staff. Multiple Intervenors, however, is very concerned that NYSEG's most recent electric and gas rate proceedings resulted in the Commission adopting a Joint Proposal that authorized material electric delivery rate increases and just under $2.13 billion in budgeted electric capital expenditures from 2020-2023. The instant Petition requests authorization to defer and ultimately recover from customers an additional $1.994 billion in electric capital expenditures. (Petition at 7.)

During the last rate proceeding, NYSEG's proposed electric and gas capital expenditures were the subject of extensive written discovery, as well as responsive testimony by DPS Staff. Capital expenditures also were a material focus of lengthy settlement negotiations between interested parties. It is not clear to Multiple Intervenors whether and to what extent the capital expenditures proposed in the Petition have been subjected to similar levels of scrutiny.

Given the enormous electric capital expenditure budgets included in NYESG's current rate plan, it is not clear whether and to what extent the projects proposed in the Petition need to be developed at this time. To a material extent, NYSEG justifies the projects based upon an expectation of a massive amount of new renewable generation being developed in the utility's service territory. (*See, e.g.,* Petition at 10-13). There are no guarantees, however, that all or most of the renewable generation anticipated by NYSEG will be developed when and where the utility anticipates. Indeed, DPS Staff and the New York State Energy Research and Development Authority ("NYSERDA") recently made a filing to the Commission recommending that Clean Energy Standard Tier 1 requirements for 2023 be reduced due to a shortage of Renewable Energy Credits in the marketplace caused by renewable generation development occurring at a slower pace than had been anticipated.[5]

Multiple Intervenors acknowledges that there will be future renewable generation development within NYSEG's service territory, and that the utility may very well need to implement certain upgrades to its electric system to facilitate and/or accommodate such development. That noted, it is not clear that there is any immediate urgency to start and complete such upgrades right now, particularly given the recent expansion in NYSEG's authorized electric capital expenditures and the slower-than-anticipated pace that large renewable generation projects are being developed. Given all of the other programs and initiatives that are being financially supported by customers at this time, and the possibility of increased CLCPA compliance costs being imposed in the future, it is critically important that utilities not be given a regulatory green light to overbuild their systems, or make investments in furtherance of renewable generation development that does not materialize in the near-term, or materializes in unanticipated locations. Quite simply, the Commission needs to proceed very cautiously, else future electric rates and

[5] *See* Case 15-E-0302, *Proceeding on Motion to the Commission to Implement a Large-Scale Renewable Program and Clean Energy Standard*, 2021 Divergence Test and Target Setting Filing by DPS Staff and NYSERDA (dated November 29, 2021).

prices will become less affordable for customers and even less competitive with other regions, thereby harming state and local economies that still are reeling from the effects of the COVID-19 pandemic.

Finally, NYSEG further argues that the development of the projects in the Petition would have a significant economic impact, claiming that "worker income will be spent in the community" in which the projects are located. (Petition at 13). This outcome, however, is not guaranteed. The Commission should not rely on unsubstantiated claims of indirect economic benefits in approving project proposals, especially for projects projected to cost billions of dollars in the aggregate without a clear cost recovery mechanism in place. Any evaluation of the economic impacts of increased investment in electric utilities' transmission and distribution systems must account for, *inter alia*, the higher future rates that will be imposed on customers. In the case of energy-intensive businesses, higher rates can lead to reduced capital investment, reduced jobs, and reduced economic activity in a region, and have similar detrimental impacts on other types of customers.

For the foregoing reasons, it is imperative that the Commission refrain from authorizing expenditures on electric capital projects that are not truly necessary this time.

POINT II

THE COMMISSION SHOULD REFRAIN FROM AUTHORIZING DEFERRALS AND SURCHARGES FOR EXPENDITURES THAT ARE NOT TRULY NECESSARY AT THIS TIME

Multiple Intervenors has several concerns regarding the potential cost/rate impacts associated with the relief sought by NYSEG in the Petition. Those concerns highlight the importance of the need for the Commission to refrain from authorizing deferrals and/or potential surcharges that are not truly necessary at this time.

Initially, NYSEG was awarded substantial rate relief by the Commission. As detailed, *supra*, in the 2020 rate case, the Commission authorized the following annual increases to NYSEG's electric revenue requirement: (a) $45.3 million (6.1%) in the first rate year (May 1, 2020 through April 30, 2021); (b) $45.6 million (5.9%) in the second rate year (May 1, 2021 through April 30, 2022); and (c) $36.0 million (4.2%) in the third rate year (May 1, 2022 through April 30, 2023).[6] The deferrals and the potential surcharge recoveries proposed by NYSEG in the Petition would be incremental to the substantial rate relief awarded to the utility.

Second, NYSEG's customers – and New York utility customers in general – already are funding numerous program and initiatives related to the CLCPA or similar objectives at enormous expense. Examples of existing funding commitments imposed on customers include – but are not limited to – the following:

- Customers are and will be funding out-of-market payments of an indeterminate amount (believed to be in the many billions of dollars) to incentivize the development of new, large-scale renewable generation facilities under Tier 1 of the Clean Energy Standard ("CES").[7]

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[6] Cases 19-E-0378 and 19-G-0379, *supra*, 2020 Rates Order at 9; *see also id.*, Attachment 1, Joint Proposal (dated May 21, 2020) at 6. These amounts reflect modifications by the Commission to those presented in the Joint Proposal, and those modifications collectively had the effect of shifting the recovery of certain costs to future years.

[7] *See generally* Case 15-E-0302, *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard*, Order Adopting a Clean Energy Standard (issued August 1, 2016) at 78-115 (establishing a CES Tier 1 program for new renewable generating resources). The most recently-published prices for CES Tier 1 Renewable Energy Credits ("REC") is $22.47 per REC, available at: http://www.nyserda.ny.gov/All-Programs/Programs/Clean-Energy-Standard/LSE-Obligations/2021-Compliance-Year. Inasmuch as renewable generation penetration in New York recently has been under 30%, and must climb to 70% by 2030 under the CLCPA, it is anticipated that CES Tier 1 RECs will have a cost well into the billions of dollars during the coming decade.

- Customers are and will be funding out-of-market payments of an indeterminate amount (believed to be in the hundreds of millions of dollars) to incentivize the continued operation of existing renewable generation facilities under Tier 2 of the CES.[8]

- Customers are and will be funding out-of-market payments of an indeterminate amount (believed to be many billions of dollars) to incentivize the continued operation of existing nuclear generation facilities under Tier 3 of the CES.[9]

- Customers will be funding out-of-market payments of an indeterminate amount (believed to be many billions of dollars) to incentivize the penetration of renewable energy in New York City under Tier 4 of the CES.[10]

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[8] *See generally* Case 15-E-0302, *supra*, Order Adopting a Clean Energy Standard at 17-18, 115-19 (establishing a CES Tier 2 maintenance program for existing renewable generation facilities demonstrating financial need), and Order Adopting Modifications to the Clean Energy Standard (issued October 15, 2020) at 49-77 (establishing an additional, competitive solicitation component to CES Tier 2, irrespective of financial need, at a maximum incremental cost of $200 million through 2026).

[9] *See generally* Case 15-E-0302, *supra*, Order Adopting a Clean Energy Standard at 119-153 (establishing a CES Tier 3 for existing nuclear generating facilities). The first two-year tranche of the 12-year Tier 3 program (encompassing April 1, 2017 through March 31, 2029) relied upon a zero-emission credit ("ZEC") price of $17.48 per ZEC, with ZECs applied to an annual maximum of 27,618,000 MWh (*see id.* at App. E), for a maximum annualized cost of $482,762,640. Thus, the existing, 12-year ZEC program is expected to cost between $5 billion and $7 billion, depending upon the cost of ZECs (which fluctuate) and the output of the State's existing nuclear generation facilities. Moreover, to the extent the CLCPA necessitates the continued operation of those facilities beyond March 31, 2029, the total Tier 3 costs may rise further, possibly significantly.

[10] *See generally* Case 15-E-0302, *supra*, Order Adopting Modifications to the Clean Energy Standard at 77-103 (establishing a CES Tier 4 focused on New York City, but requiring the costs to be recovered on a statewide basis); *see also id.*, Petition filed by DPS Staff and NYSERDA dated November 30, 2021 (seeking Commission approval for two contracts for the purchase of Tier 4 RECs, each of which would guarantee over $1 billion in revenues annually to the developers for 25-year periods). The projected potential first-year impacts to NYSEG electric customers are as high as 8.6%, and double that (~17.2%) for large non-residential customers. *Id.*, Appendix C at 26.

- Customers will be funding out-of-market payments of an indeterminate amount (believed to be many billions of dollars) to incentivize the development of new, offshore wind generation facilities.[11]

- Customers already are committed to funding a Clean Energy Fund ("CEF") at a cost of over $6 billion.[12]

- DPS Staff and NYSERDA recently filed a petition that is currently pending before the Commission seeking to increase the CEF budget by $1.474 billion to fund additional incentives for distributed solar.[13]

- Customers are and will be funding utility-administered electric energy efficiency programs at a cost of close to $1.9 billion through 2025, and potentially more thereafter.[14]

- Customers are and will be funding utility-administered gas energy efficiency programs at a cost close to $900 million through 2025, and potentially more thereafter.[15]

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[11] *See generally* Case 18-E-0071, *In the Matter of Offshore Wind Energy*. *See also id.*, Order Establishing Offshore Wind Standard and Framework for Phase 1 Procurement (issued July 12, 2018) at 15-64 (establishing an offshore wind generation target of 2.4 GW by 2030 and authorizing an initial procurement process in support thereof). The CLCPA increased the offshore wind generation target from 2.4 GW by 2030 to 9 GW by 2035. N.Y. Env. Cons. Law § 75-0103(13)(E).

[12] *See generally* Case 14-M-0094, *Proceeding on Motion of the Commission to consider a Clean Energy Fund*. *See also id.*, Order Authorizing the Clean Energy Fund Framework (issued January 21, 2016) at Appendix H (authorizing customer collections of $6,001,000); and Order Approving Clean Energy Fund Modifications (issued September 9, 2021) at Appendix E (authorizing $3,165,800 in collections from customers from 2021-2029).

[13] *See generally* Case 21-E-0629, *In the Matter of the Advancement of Distributed Solar*, Filing by Staff and NYSERDA entitled, "New York's 10 GW Distributed Solar Roadmap: Policy Options for Continued Growth in Distributed Solar" (dated December 17, 2021). According to this filing, the proposal could result in incremental 2024 bill impacts of 1.07%. *Id.* at 80.

[14] *See generally* Case 18-M-0084, *In the Matter of a Comprehensive Energy Efficiency Initiative*. *See also id.*, Order Authorizing Utility Energy Efficiency and Building Electrification Portfolios Through 2025 (issued January 16, 2020) (hereinafter, "NE:NY Order") at App. A, Table A3 (authorizing statewide spending on utility-administered electric energy efficiency programs of $1,879,114,825 from 2021-2025).

[15] *See id.*, NE:NY Order at App. A, Table A4 (authorizing statewide spending on utility-administered gas energy efficiency programs of $878,716,819 from 2021-2025).

- Customers are and will be funding utility-administered electric heat pump programs at a cost of over $450 million through 2025, and potentially more thereafter.[16]

- Customers are and will be funding incentives to promote electric vehicle infrastructure investments at a cost of over $700 million through 2025, and potentially more thereafter.[17]

- Customers are and will be funding an Electric Generation Facility Cessation Mitigation Program, which is intended to compensate municipalities that lose tax base when generation facilities retire due to the transition to a cleaner electric system, at a cost of $112.5 million through 2030.[18]

- Customers are and will be funding out-of-market payments and utility cost recovery of an indeterminate amount (believed to be substantial) to incentivize the development of new electric storage facilities.[19]

- Customers are and will be funding multiple large-scale transmission projects at an indeterminate cost (believed to be many billions of dollars) whose primary purpose is to increase the deliverability of renewable energy to different regions of the State.[20]

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[16] *See id.*, NE:NY Order at App. C, Table C1 (authorizing statewide spending on utility-administered electric heat pump programs of $454,318,220 from 2020-2025).

[17] *See generally* Case 18-E-1038, *Proceeding on Motion of the commission Regarding Electric Vehicle Supply Equipment and Infrastructure*. *See also id.*, Order Establishing Electric Vehicle Infrastructure Make-Ready Program and Other Programs (issued July 16, 2020) at 68-76 and Appendix B (authorizing statewide spending on EV infrastructure incentives of $700,994,850 through 2025).

[18] *See* Case 20-E-0473, *In the Matter of Developing a Funding Mechanism for the Electric Generation Facility Cessation Mitigation Program*, Order Authorizing Funding for Electric Generation Facility Cessation Mitigation Program (issued February 11, 2021) (establishing a budget of $12.5 million per year through 2030 to be funded by electric customers statewide).

[19] *See generally* Case 18-E-0130, *In the Matter of Energy Storage Deployment Program. See also id.*, Order Establishing Energy Storage Goal and Deployment Policy (issued December 13, 2018) at 1-5 (establishing a target of 3,000 MW of qualified storage energy systems by 2030, with an interim objective of 1,500 MW of energy storage systems by 2025). The CLCPA incorporates the electric storage target of 3,000 MW by 2030. N.Y. Env. Cons. Law § 75-0103(13)(E).

[20] *See, e.g.,* Case 12-T-0502, *Proceeding on Motion of the Commission to Examine Alternating Current Transmission Upgrades,* Order Addressing Public Policy Transmission Need

- Customers are and will be finding Earnings Adjustment Mechanisms for the benefit of utility shareholders at an indeterminate cost (believed to be in the hundreds of millions of dollars) for the purpose of incentivizing utilities to help achieve certain State clean energy objectives.[21]

- Customers are and will be funding out-of-market payments at an indeterminate cost (believed to be substantial) to incentivize Distributed Energy Resources ("DER") through net energy metering arrangements and "value stack" compensation.[22]

Only some of the above financial obligations currently are reflected in electric delivery rates; the majority of them are and will be funded by customers via higher commodity costs. Moreover, due to wholesale market conditions, customers currently are experiencing a dramatic uptick in energy

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for AC Transmission Upgrades (issued January 24, 2017) at 18-19 (justifying the AC Transmission projects on a need to increase transmission capacity to allow renewable generation facilities to deliver their energy to downstate load centers); Case 14-E-0454, *In the Matter of New York Independent System Operator, Inc.'s Proposed Public Policy Transmission Needs for Consideration,* Order Addressing Policy Requirements for Transmission Planning Purposes (issued July 20, 2015) at 27 (justifying the Western New York transmission project on a need to increase deliverability in the region to maximize output from the New York Power Authority's Niagara hydroelectric generation facility and additional imports of renewable energy from the Ontario IESO region); and Case 20-E-0497, *In the Matter of New York Independent System Operator, Inc.'s Proposed Public Policy Transmission Needs for Consideration for 2020,* Order Addressing Public Policy Requirements for Transmission Planning Purposes (issued March 19, 2021) at 1-4 (justifying future transmission projects in and between Long Island and New York City on a need to facilitate deliverability of offshore wind generation).

[21] *See generally* Case 14-M-0101, *Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision*, Order Adopting a Ratemaking and Utility Revenue Model Policy Framework (issued May 19, 2016) at 53-93 (discussing and then mandating the use of EAMs).

[22] *See generally* Case 15-E-0751, *In the Matter of the Value of Distributed Energy Resources*. *See also id.*, Order on Net Energy Metering Transition, Phase One of value of Distributed Energy Resources, and Related Matters (issued March 9, 2017) (addressing, and providing exemptions to, an eventual transition from net energy metering, and also establishing value stack compensation for certain DERs).

costs.[23] Thus, now is not the time to add to customers' already-substantial burdens by implementing new deferrals and surcharges.

For the foregoing reasons, the Commission should refrain from authorizing deferrals and surcharges for expenditures that are not truly necessary at this time.

POINT III

IF AN INTERIM SURCHARGE IS APPROVED, IT SHOULD BE RECOVERED ON THE BASIS OF DEMAND

As detailed, *supra*, Multiple Intervenors has significant cost-related concerns regarding the relief sought in the Petition. Notwithstanding a three-year electric rate plan that provides for almost $2.13 billion in electric capital expenditures over the 2020-2023 period, NYSEG now is seeking Commission authorization to undertake additional capital projects at a projected cost of $1.994 billion. (Petition at 7.)[24] If and when those projects are completed, they will place upward pressure on future rates, as the utility will be entitled to earn a return of and on

[23] According to the New York Independent System Operator, Inc., the average statewide cost of energy and ancillary services was $47.59 per MWh in 2021, up from $25.70 per MWh in 2020. NYISO CEO/COO Report (Management Committee, January 26, 2022) at Slide B; available at https://www.nyiso.com/documents/20142/27895094/03a%20NYISO%20CEO-COO%20MC%20Report.pdf/a693ca32-e5c2-ce5f-3e84-6a42a6b5a4f4. In January and February 2022, the average statewide cost of energy and ancillary services skyrocketed to $137.49 and $95.82 per MWh, respectively. NYISO, Market Operations Report (Business Issues Committee, March 16, 2022) at Slide B; available at https://www.nyiso.com/documents/20142/29125757/Market%20Operations%20Report_%20BIC_03.16.22.pdf/6ffd0f96-5852-e2df-7588-934ebbc731e3.

[24] Multiple Intervenors notes that NYSEG's cost estimates are subject to a +50% and -25% variance. *See id.* That potential variance also is troubling. It is not clear to Multiple Intervenors how the Commission rationally can authorize capital expenditures with such a large variance in potential costs. With such variance, planned capital expenditures of $1.994 billion can become expenditures of $2.991 billion. Frankly, if NYSEG (and other, similarly-situated utilities) are not capable of placing tighter limitations on their planned capital expenditures, that is a clear signal that the proposed projects are not sufficiently developed for Commission action.

its investment. In its Petition, NYSEG states initially that it "is not seeking to implement a surcharge at this time." (*Id.* at 3.) Significantly, however, in the very next sentence, NYSEG indicates that "it may seek an interim surcharge to collect the return of, and return on, plant in service as well as any other costs associated with such Projects until such time as they are included in a future rate plan." (*Id.*) Multiple Intervenors opposes the implementation of a new surcharge – interim or otherwise – during the term of NYSEG's existing electric rate plan. If, notwithstanding this opposition, the Commission authorizes such implementation, the surcharge should be recovered on the basis of demand, consistent with cost causation principles.

Notwithstanding apparently seeking the ability to impose an interim surcharge on customers, NYSEG does not explain in the Petition how it would be implemented. If, *arguendo*, an interim surcharge is imposed, the costs recovered thereunder should be allocated to the various service classes on a demand basis, consistent with how electric transmission and distribution capital expenditures normally are allocated in the utility's cost-of-service studies and rate proceedings generally. Such an allocation would be equitable to all customer classes and consistent with cost causation principles. In contrast, the Commission should not authorize the imposition of any energy-based surcharge to recover costs associated with transmission-related or distribution-related capital expenditures – an approach that would be inequitable to high-load-factor classes and inconsistent with cost causation principles.[25]

[25] *See* Cases 14-E-0318, *et al.*, *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Central Hudson Gas & Electric Corporation for Electric Service*, Order Approving Rate Plan (issued and effective June 17, 2015) at 65-66 (finding that the Company needed to file a detailed description of the surcharge mechanism and the manner in which costs will be recovered, *i.e.*, as incurred versus over a period of time). *See also* Case 17-M-0718, *Petition of Orange and Rockland Utilities, Inc. for Authorization of a Program Advancement Proposal*, Order Granting Petition in Part (issued and effective November 16, 2017) at 23 (the Commission denied the utility's request to recover costs through an energy cost adjustment

For the foregoing reasons, Multiple Intervenors does not believe the imposition of an interim surcharge has been justified in this instance. If, arguendo, such a surcharge is approved, it should be allocated and recovered on the basis of class demand.

CONCLUSION

For all the foregoing reasons, the Commission should deny NYSEG's Petition or, alternatively, modify the relief sought therein to eliminate or reduce current and future rate impacts to customers.

Dated: March 28, 2022
Albany, New York

Respectfully submitted,

MULTIPLE INTERVENORS

Michael B. Mager

Michael B. Mager, Esq.
Melanie M. Franco, Esq.
Counsel to Multiple Intervenors
540 Broadway, P.O. Box 22222
Albany, New York 12201-2222

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mechanism, explaining that cost recovery should "better match cost causation and 'beneficiaries pay' principles.").