

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on November 13, 2025

COMMISSIONERS PRESENT:

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

CASE 14-M-0094 - Proceeding on Motion of the Commission to
Consider a Clean Energy Fund.

CASE 18-M-0084 - In the Matter of a Comprehensive Energy
Efficiency Initiative.

CASE 25-M-0248 - In the Matter of the 2026-2030 Non-Low- to
Moderate-Income Energy Efficiency and Building
Electrification Portfolios.

CASE 25-M-0249 - In the Matter of the 2026-2030 Low- to
Moderate-Income Energy Efficiency and Building
Electrification Portfolios.

ORDER GRANTING REHEARING, IN PART, AND
PROVIDING CLARIFICATION

(Issued and Effective November 14, 2025)

BY THE COMMISSION:

INTRODUCTION

On June 16, 2025, Multiple Intervenors (MI or
Petitioner) filed a petition (Petition) seeking rehearing of two
orders issued by the Public Service Commission (Commission) on
May 15, 2025, approving Statewide portfolios of energy
efficiency (EE) and building electrification (BE) measures and

policies for the 2026-2030 period.¹ In the May 2025 EE/BE Orders, the Commission targeted both low-to-moderate income (LMI) and non-LMI customers, and approved EE/BE portfolio budgets totaling approximately \$5.4 billion over the period 2026-2030, to be administered by both the New York State Energy Research and Development Authority (NYSERDA) and the State's major investor-owned electric and gas utilities (Utilities).²

Petitioner argues that the Commission committed errors of law and/or fact in approving such incremental funding without considering or discussing what specific programs would be implemented, whether they pass benefit/cost tests, the resulting customer rate and bill impacts, and the reasonableness of the rate impacts in light of other ratepayer-funded initiatives and programs. Petitioner also maintains that the Commission erred in law and/or fact in ruling that the various unidentified and undiscussed methodologies currently used to allocate the costs of utility-administered EE/BE programs among service classes remain to be used for future EE/BE programs. Specifically, MI highlights the absence of an analyses as to the programs themselves or the service classes to which such programs are

¹ Case 14-M-0094 et al., Order Authorizing Low- to Moderate-Income Energy Efficiency and Building Electrification Portfolio for 2026-2030 (issued May 15, 2025) (LMI Order) and Order Authorizing Non-Low- to Moderate-Income Energy Efficiency and Building Electrification Portfolios for 2026-2030 (issued May 15, 2025) (Non-LMI Order) (together, the May 2025 EE/BE Orders).

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

targeted and the Commission's simultaneous adoption of new policies mandating that substantial portions of the authorized budgets be devoted solely towards small residential weatherization projects. Petitioner further claims that the Commission erred in law and/or fact in directing that EE/BE program costs be recovered from customers via surcharges that raise concerns regarding intraclass rate and bill impacts. Petitioner asserts that, absent modification of these rulings on rehearing, the May 2025 EE/BE Orders would have greater rate impacts on large, high-load-factor commercial and industrial (C&I) customers than any other customer type, while the vast majority of expenditures are directed at measures targeted to LMI and non-LMI residential and small C&I customers.

Pursuant to 16 NYCRR §3.7(c), responses to the Petition were due on July 1, 2025. No comments were received. For the reasons discussed below, the Commission grants rehearing to the extent clarification regarding cost recovery matters is warranted and otherwise denies the Petition.

BACKGROUND

On July 20, 2023, the Commission issued the Order Directing Proposals, which sought filings by NYSERDA and the Utilities, collectively also referred to as Program Administrators (PAs), for individual budget-bounded LMI and non-LMI EE/BE portfolios for the 2026 through 2030 period.³ The Order Directing Proposals directed the PAs to detail, inter alia: (1) portfolio objectives of programs to be offered; (2) appropriate performance metrics and program targets both for overall portfolios and individual programs; (3) budgets, by

³ Case 14-M-0094 et al., Order Directing Energy Efficiency and Building Electrification Proposals (issued July 20, 2023) (Order Directing Proposals).

year, in various categories, including portfolio administration, and evaluation, measurement, and verification activities; (4) rules and procedures regarding flexibility to shift funds across years; (5) a cost-recovery mechanism and process; (6) specific approaches to be employed to ensure provision of benefits to Disadvantaged Communities; and (7) a description of how the portfolio would work cohesively with programs offered by other PAs.⁴ With respect to funding, the Commission also specifically adopted a budget-bounded approach and established an upper budget limit of \$1 billion per year in total, with individual annual allocations by PA.⁵ The Commission further noted that other sources of funds, like federal funding and New York cap and invest funding, are expected to contribute toward clean energy initiatives outside of those funded directly by ratepayers.⁶

In compliance with the Order Directing Proposals, the PAs filed their proposals in November 2023 and later filed supplements to their proposals in January 2024. Technical conferences were held on February 2, 2024, and February 8, 2024, regarding the LMI- and non-LMI portfolios to be administered Downstate and Upstate, respectively.⁷ Pursuant to the State Administrative Procedure Act (SAPA), §202(1), multiple Notices of Proposed Rule Makings regarding the proposals were also published in the State Register on February 14, 2024 (SAPA Notices).⁸ Separately, the Secretary to the Commission issued a

⁴ Order Directing Proposals, pp. 93-94.

⁵ Order Directing Proposals, pp. 87-89.

⁶ Order Directing Proposals, pp. 89-94.

⁷ The Downstate Utilities were defined as Con Edison, KEDNY, and KEDLI, while the Upstate Utilities were defined as Central Hudson, NFG, NYSEG, Niagara Mohawk, O&R, and RG&E.

⁸ Notices were filed in Case 18-M-0084.

notice on January 26, 2024 (Secretary's Notice), seeking stakeholder feedback on the various proposals. The Commission received approximately 200 sets of comments from stakeholders in response to the SAPA Notices and the Secretary's Notice.

Thereafter, on May 15, 2025, the Commission issued the May 2025 EE/BE Orders. In those Orders, the Commission approved, with modifications, the PAs' various proposals for LMI and non-LMI EE/BE portfolios for 2026-2030. Relevant here, the Orders specifically directed cost recovery of the PAs' 2026-2030 portfolio budgets via surcharge mechanisms, approved total annual budgets and allocations (between the various PAs, and between LMI and non-LMI portfolios), and adopted the budget-bounded approach to provide overall cost certainty to the ratepayers funding these efforts.

PETITION FOR REHEARING

MI asserts that the Commission committed various errors of law and/or fact in issuing the May 2025 EE/BE Orders. First, MI argues that the Commission erred in approving almost \$5.4 billion in new spending on EE/BE programs without adequate bases. MI argues that neither the Commission nor customers know the specific EE/BE programs that will need to be funded and authorizing \$5.4 billion in new spending on undefined and undetailed programs is arbitrary and capricious. MI also contends that the EE/BE Orders failed to include any discussion or analysis of whether the unidentified programs satisfy (or, once they are identified, would satisfy) benefit/cost tests to ensure that they constitute a cost-effective use of customer

funds.⁹ MI further asserts that the May 2025 EE/BE Orders fail to include any information, analysis, or consideration regarding customer rate and bill impacts resulting from the authorized expenditures. MI avers that, given the Commission's decision to address interclass revenue allocation and intraclass cost recovery in the May 2025 EE/BE Orders, customer rate and bill impacts should have been calculated and analyzed by utility, service classification, and customer size. MI argues that, on rehearing, the Commission should undertake an analysis of the rate and bill impacts of the May 2025 EE/BE Orders - both in isolation and in conjunction with other financial obligations being imposed on customers - and determine the level of spending on EE/BE programs that would ensure that rates are in fact just and reasonable.

Second, MI argues that the Commission erred in directing that the EE/BE portfolio budgets for the 2026-2030 period be recovered using previously approved methodologies. While acknowledging that mitigating interclass cost shifts may be a legitimate interest, MI asserts that the Commission seemingly ignored (and did not reference or discuss) other potential interests and considerations related to cost allocation. According to MI, the Commission ignored cost causation and beneficiaries pay principles and simply directed utilities to continue relying on allocation formulas developed for previously approved EE/BE programs that may differ in material ways from the portfolios of programs that will be implemented during the 2026-2030 period. MI further suggests that, because specific EE/BE programs have yet to be identified

⁹ MI recommends that specific EE/BE programs should first be proposed for consideration, then subjected to benefit/cost tests, and only then be approved for implementation to the extent they are demonstrated to be cost-effective.

or detailed, the Commission lacks a rational basis for determining previously approved cost allocation methodologies are appropriate for the EE/BE programs to be implemented during 2026-2030. MI also specifically expresses that, in its understanding, the costs of utility-administered EE programs in Upstate New York are allocated to service classes predominantly on an energy basis even though the programs are substantially focused on reducing electric and gas demand, including peak demand. Consequently, it proffers that large, high-load-factor C&I customers currently pay a disproportionate share of EE program costs and experience the largest rate impacts stemming from such programs, even though the majority of the efforts and the associated spending are directed toward residential and small C&I customers.

Third, MI asserts that the Commission erred by relying on the Systems Benefit Charge (SBC) or similar mechanism for surcharge recovery of utility-administered EE/BE program costs.¹⁰ MI claims that the SBC or similar (i.e., per-kWh) mechanism is problematic for large demand-metered C&I customers from whom EE/BE costs are currently recovered via per-kW demand charges. According to MI, the potential change in recovery methodologies would lead to material, unexplored cost shifts within individual service classes. MI further declares that the Commission failed to demonstrate that a per-kWh recovery mechanism of utility-administered EE/BE program costs would reflect cost causation or otherwise be just and reasonable, since EE programs focus on reducing demand, including peak demand, in addition to energy consumption. MI states that the amount of utility collections

¹⁰ MI takes no issue with the Commission's decision to transition, effective January 1, 2026, from recovery of utility-administered EE/BE program costs through base delivery rates to recovery through surcharges.

for such programs would seemingly be largely fixed and would not vary based on customer energy consumption. MI also notes that labor-related costs, which would move to surcharge recovery, are largely fixed costs and generally should not be recovered on an energy basis.

Based on the foregoing, MI requests that the Commission grant rehearing and modify the May 2025 EE/BE Orders in a manner consistent with the arguments raised in the Petition.

LEGAL AUTHORITY

The Commission's authority to grant or refuse an interested person's request for rehearing of an order is established by Public Service Law §22 and is governed by regulations implementing that statute in 16 NYCRR §3.7. A party seeking rehearing bears the burden of establishing that the Commission committed an error of law or fact or that new circumstances warrant a different determination.¹¹ A petition for rehearing must separately identify and specifically explain and support each alleged error or new circumstance said to warrant rehearing.

DISCUSSION AND CONCLUSION

Petitioner alleges that several errors in law and/or fact necessitate rehearing of the May 2025 EE/BE Orders. The Commission addresses each of Petitioner's arguments below.

MI first argues that rehearing is warranted because the Commission erred in approving almost \$5.4 billion in new spending on EE and BE programs without adequate bases. Specifically, MI argues that the Commission lacked an adequate

¹¹ Sixteen NYCRR §3.7(b).

base to authorize \$5.4 billion of new spending because the exact measures and programs for the 2026-2030 period are undefined. While the precise EE/BE measures and programs are subject to development and potential refinements, the Commission established parameters and guidelines tailored to ensure the authorized funding was in furtherance of the public interest. Notably, the Commission's actions in the May 2025 EE/BE Orders were consistent with previous orders wherein the Commission authorized broad EE and BE portfolio budgets for various time periods, along with expected savings targets and outcomes, without necessarily specifying individual, discrete programs.¹² In the Order Directing Proposals, the Commission adopted a "Strategic Framework" to guide the evolution of the EE/BE portfolios and ensure that they are aligned with New York's energy efficiency and emissions reduction policy objectives. The LMI Order approved minor modifications to the Strategic Framework to which the measures, programs, and portfolios for 2026 through 2030 must adhere "to ensure that ratepayer funding is deployed in a targeted way to further New York State policy goals,"¹³ while the Non-LMI Order "up[eld] the Strategic Framework established in the Order Directing Proposals, with some modifications and clarifications, based on consideration of

¹² Case 14-M-0101, Reforming the Energy Vision, Order Adopting Regulatory Policy Framework and Implementation Plan (issued February 26, 2015); Case 15-M-0252, Utility Energy Efficiency Programs, Order Authorizing Utility-Administered Gas Energy Efficiency Portfolios for Implementation Beginning January 1, 2016 (issued June 19, 2015); Case 14-M-0094, Order Authorizing the Clean Energy Fund Framework (issued January 21, 2016); Case 18-M-0084, Order Authorizing Utility Energy Efficiency and Building Electrification Portfolios Through 2025 (issued January 16, 2020).

¹³ LMI Order, p. 104.

the PAs' proposals and stakeholder comments."¹⁴ Further, the May 2025 EE/BE Orders established a robust ongoing compliance process that requires the PAs to regularly file implementation plans that must be approved by Department of Public Service (DPS) Staff, and transparent reporting throughout the implementation of the 2026-2030 EE/BE portfolios. The Commission finds that these actions, together, provide a sound basis for authorizing the expenditures on EE/BE for the 2026-2030 period.

MI also contends that the Commission authorized the budgets for 2026-2030 without "any analysis or assurances that such spending would represent an economic use of customer funds" such as the use of specific benefit/costs tests.¹⁵ To the contrary, the Commission considered the appropriateness of such use of ratepayer funds as part of its Strategic Framework, which was the result of an extensive process that involved detailed analysis and consideration of public comments. Specifically, in the Order Directing Proposals, the Commission explained that the Strategic Framework is intended to best support the State's significant climate goals and ensure a shift to more comprehensive, longer-lasting, and often more expensive projects and measures, but that "it would be inconsistent with the intent of the new framework to apply a singular focus of 'cost effectiveness' across the entire portfolio."¹⁶ Instead, the Commission found that the budget-bounded approach would help achieve Statewide targets in the most cost-effective manner, and therefore directed PAs to propose programs and targets that align with the purposes and prioritizations of the new Strategic

¹⁴ Non-LMI Order, p. 79.

¹⁵ Petition, p. 7.

¹⁶ Order Directing Proposals, p. 33.

Framework.¹⁷ The Commission also established a requirement that DPS Staff review and approve portfolio implementation plans prior to each year that the portfolios will operate, which will provide additional safeguards to ensure that ratepayer funds are being used effectively and appropriately.

MI's second argument is that applying the historic or existing allocations to the 2026-2030 portfolios is inappropriate because of new policies and priorities that require certain portions of the utility-administered budgets to be assigned to residential weatherization programs. The Commission notes, however, that such funding for residential weatherization programs represents a repurposing of historical funding for LED lighting and home energy reports into prioritizing weatherization of homes across New York State. Non-residential ratepayers will continue to be eligible for, and directly benefit from, program offerings funded through the PAs' EE/BE portfolio budgets. Further, energy efficiency and building electrification programs provide system-wide and societal benefits. Effective programs and initiatives can result in indirect benefits to all ratepayers of the energy system by reducing or delaying the need for infrastructure investments and upgrades that may otherwise have been necessary to maintain or improve the reliability and resilience of the grid. Energy efficiency and building electrification programs deliver societal benefits as well, particularly in the form of reduced greenhouse gas emissions. Continuing to use the existing allocations to collect EE/BE costs is a reasonable approach to ensure that costs continue to be recovered from customers in an equitable manner.

¹⁷ Order Directing Proposals, p. 88.

MI's third argument is that the Commission erred in directing that the SBC should be used for cost recovery because of potentially significant intraclass cost shifting impacts for large, demand-billed customers from whom EE/BE costs are currently recovered on a demand basis.¹⁸ The Commission agrees that a surcharge mechanism designed to collect the costs allocated to each customer class based solely on a per-kWh charge could result in intraclass cost shifting impacts. However, the May 2025 EE/BE Orders neither specify that the utility-administered program costs must be assessed on an energy only (e.g., per-kWh) basis, nor do they preclude the assessment on or through a demand (e.g., per kW) component. The Commission expressly clarifies that the intent of the May 2025 EE/BE Orders is to maintain ratepayers' existing proportional responsibilities for EE/BE portfolio costs, and to avoid materially impacting ratepayers solely through rate design and the transition to collections via surcharge. To that end, EE/BE costs allocated to large, demand-billed service classifications are to be recovered through a demand (e.g., per kW) based rate component.

While we directed the Utilities to recover EE/BE program costs using the SBC, or similar surcharge, there may be complexities associated with adding a demand-based cost element to the SBC. To the extent a utility cannot implement a demand-based cost element to the SBC, such utility is to recover EE/BE programs using a different demand-based surcharge. This should be accomplished in consultation with DPS Staff and via the compliance process established in the May 2025 EE/BE Orders, in

¹⁸ Significantly, MI does not generally take issue with the Commission's decision to transition the cost recovery of the utility-administered EE/BE portfolio costs from base rates to a surcharge mechanism.

which the individual utility surcharges are currently being developed. The Utilities shall file tariff revisions to enable cost recovery via a component of the SBC or a similar demand-based surcharge, to go into effect on a temporary basis on or before March 1, 2026, on not less than 15 days' notice. The Utilities shall also file tariff statements, annually, regarding the surcharge rates for cost recovery for the Utility-Administered Energy Efficiency and Building Electrification portfolios, via a component of the System Benefit Charge or a similar demand-based surcharge, as appropriate, to go into effect on January 1st of each subsequent year, on not less than 15 days' notice. Given the extensive public notice and opportunity to submit comments, the Commission waives the requirements of newspaper publication pursuant to PSL §66(12)(b) and Title 16 of the New York Codes, Rules and Regulations (16 NYCRR) §720-8.1, with respect to the tariff amendments directed in this Order.

Based on all the foregoing, the Commission grants rehearing to the extent clarification is warranted with respect to cost recovery matters. The Petition is otherwise denied.

The Commission orders:

1. The petition, filed in these proceedings by Multiple Intervenors on June 16, 2025, is granted, to the limited extent discussed in the body of this Order, and is otherwise denied.

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

Electric Corporation shall file tariff revisions to enable cost recovery for the respective Utility-Administered Energy Efficiency and Building Electrification portfolios, via a component of the System Benefit Charge or a similar demand-based surcharge, to go into effect on a temporary basis on or before March 1, 2026, on not less than 15 days' notice, as discussed in the body of this Order.

3. Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., KeySpan Gas East Corporation d/b/a National Grid, The Brooklyn Union Gas Company d/b/a National Grid NY, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation shall file tariff statements, annually, regarding the surcharge rates for cost recovery for the Utility-Administered Energy Efficiency and Building Electrification portfolios, via a component of the System Benefit Charge or a similar demand-based surcharge, as appropriate, to go into effect on January 1st of each subsequent year, on not less than 15 days' notice, as discussed in the body of this Order.

4. The requirements of Public Service Law §66(12)(b) and 16 NYCRR §720-8.1, as to newspaper publication with respect to the tariff filings directed in Ordering Clause Nos. 2 and 3, are waived, as discussed in the body of this Order.

5. These proceedings are continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary