September 19, 2024

VIA ELECTRONIC MAIL

Hon. Michelle L. Phillips, Secretary
New York State Public Service
Commission 3 Empire State Plaza
Albany, New York 12223-1350
secretary@dps.ny.gov

Re: CASE 20-G-0131 – Proceeding on Motion of the Commission in Regard to Gas Planning Procedures.

NOTICE SEEKING COMMENTS

Dear Secretary Phillips:

Advanced Energy United ("United") submit for filing the attached comments in response to the *Notice Seeking Comments*, Issued July 16, 2024, in the above referenced proceeding.

Respectfully submitted,

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State of New York Public Service Commission

In the Proceeding on Motion of the Commission in Regard to Gas Planning Procedures — Case 20-G-0131

I. Introduction and Background

As a matter of principle, Advanced Energy United ("United") supports aligning energy infrastructure and technology price signals with market and policy trends. Doing so requires periodic reviews of both explicit and implicit incentives within the laws and regulations of the respective jurisdiction, and we commend the Public Service Commission ("Commission") for its initiative to reassess gas entitlement policies that go above and beyond statutory requirements.

The Climate Leadership and Community Protection Act ("CLCPA") and Climate Action Council's Scoping Plan make it clear that New York needs clean, high-efficiency, electric buildings to meet its climate goals. With that goal in mind, every public or ratepayer dollar invested in new, non-safety or reliability-related fossil gas system assets with a lifespan beyond 25 years is working at obvious cross-purposes. Furthermore, we exist today in an investment-constrained environment wherein concerns about rate increases, energy affordability, and energy burden across the energy system at large are forcing critical tradeoffs. Ending the practice of adding millions of dollars to gas rate bases each year via the extension of gas service to new customers – without restricting a customer's ability to obtain service on their own dollar – is an easy way to either keep money in household pocketbooks or free up potential dollars for investments in the electric system that will power our clean buildings and transportation future.

Below, United responds to several of the specific recommendations and questions posed by Department of Public Service Staff ("Staff") in the Staff Straw Proposal Regarding Modifications of 16 NYCRR Part 230 (July 16, 2024). Absence of a response does not indicate a position in opposition or support. We also note that in light of a future statutory repeal of the "100-foot rule," we support eliminating the allowance for new gas hookups in full.

II. Responses to Specific Recommendations and Questions Posed by Staff

1. *Staff proposes amending the 100-foot rule and other provisions within Part 230 to bring the incentive structure for new gas service more in line with other more environmentally sustainable options in the heating and energy market, and to bring the incentive to further expand gas infrastructure more in line with CLCPA emissions targets. (Page 9)*

United supports this proposal.

3. *Staff recommends providing all residential applicants, whether for heating or non-heating service, with the same entitlement. (Page 14);*

4. *Staff recommends changing the entitlements for all residential applicants to be 100 feet of main and service line combined. (Page 14);*
5. *Staff recommends changing the entitlement for the non- residential applicants to be no more than the total of 100 feet of mains and/or service line located in the public right-of-way and appurtenant facilities. (Page 15)*
6. *Staff recommends specifying that [Local Distribution Companies] LDCs may not provide more than the entitlements set forth in §230.2. In other words, the LDCs must charge applicants for any facilities installed in excess of the entitlements set forth in §230.2. (Page 15)*
11. *Staff proposes revoking §230.3(a)(2) as it provides facilities in excess of the entitlement to applicants at no direct cost to the applicant. (Page 18-19)*
13. *Staff recommends revoking §§ 230.3(a)(4)(ii) and (a)(6) as these provisions provide applicants with facilities beyond the statutory entitlement at no direct cost to the applicant. (Page 21)*
14. *Staff recommends revoking §230.3(a)(5), which requires LDCs refund gas customers for any surcharge within five years if those customers' total adjusted gas revenues exceed the carrying cost of the main extension serving them. (Page 21)*

United supports these proposals, which serve as a conforming change to implement what we understand to be the intent of this straw proposal – to reduce allowances for new gas hookups to the statutory minimum.

9. *Staff recommends modifying §230.3(a)(1) such that, instead of charging applicants "actual reasonable costs" for service extensions, applicants for gas service should pay for the actual cost incurred by the LDC for the materials and installation of the portion in excess of the entitlement. (Page 17-18)*

United supports this proposal as a way to ensure that entitlements beyond the statutory minimum are fully borne by the customer requesting service. Without such a change, some costs to extend service to new customers beyond the statutory minimum may still be added to rate base when the cost of an individual project exceeds the cost of similar projects, further exacerbating the financial challenges associated with customer and throughput decline.

10. *Staff seeks stakeholder comments on whether to continue to allow LDCs to recover the costs of facilities in excess of entitlement through surcharges or require that applicants pay any required [Contributions in Aid of Construction] CIAC when the facilities are installed. There are three options. First, require that applicants pay any required CIAC up front. Second, require that new customers pay any required CIAC over the course of five years, which approximates the current limitation of the surcharge to 20 percent of actual cost per year. Third, maintain the current limitation in 16 NYCRR §230.3(a)(4)(iii), which requires that any surcharges cease after ten years. This would also maintain the status quo allowing LDCs the flexibility to require surcharges lasting between five and ten years. (Page 18)*

To avoid issues with customer choice, it makes sense to allow customers who are willing to pay for gas service (which in the future, maybe be considered a "luxury good" for residential customers). However, there is no economic rationale to make it easier for customers to make decisions that conflict with long term policy goals and market trends. Further, even if a customer pays for their own line extension (or line extension beyond the statutorily required 100-foot minimum), maintenance, operation, and sometimes costly replacement of other gas infrastructure further upstream is required to continue to serve that customer with gas. Those are costs that will be borne by the entire rate base, even as the number of customers and throughput decline. Therefore, new service paid for by any individual customer is not truly cost-neutral over the long term for other gas customers, and may exacerbate stranded assets and "death spiral" risk, especially for vulnerable customers who cannot easily transition off of the gas network.

Further, as customer and throughput decline over time, there may come a point in which allowing an LDC to "front" the money becomes financially precarious for a utility with declining revenues and, ultimately, a more challenging investment environment. Before allowing this rule to stand, the Commission might consider if and when the status quo, or the second option denoted in the question, would be irresponsible to maintain. Indicators may include when demand is expected to drop below certain levels on upstream pipelines, when the percentage of customers remaining on a certain node of the system falls below a critical mass, when portions of the gas system would otherwise be decommissioned within five or 10 years, etc.

United therefore does not support any voluntary regulation (i.e., at the Commission's discretion because there is no directly relevant statute) that makes it easier to further entrench gas infrastructure dependencies, like allowing a customer to pay for new gas service over five to 10 years. We believe that maintaining the status quo violates the spirit of these proposed changes to restrict gas entitlements to the statutory minimum.

12. *Staff seeks input from stakeholders regarding whether to continue to allow applicants to pool entitlements. Stakeholders should provide specific and concrete examples of impacts and risks of retaining, modifying, or removing the ability of applicants to pool entitlements. (Page 20)*

Similarly to our response to Question 10, United understands the ability to pool entitlements as a mechanism that makes it easier for customers installing new gas service to finance the project. United believes that it allows for further entrenchment of the gas system, which is in conflict with the CLCPA, the Climate Scoping Plan, and the spirit of these proposed changes to regulation. Given that this is not explicitly required by statute and a reasonable interpretation that made sense only in a different policy environment, we support its elimination.

18. *Staff seeks stakeholder input on how these changes can coincide with ongoing electrification programs to allow for prospective applicants for gas service to consider more environmentally sustainable energy sources. (Page 24)*

While there are clear gaps that remain to be filled, there have never been more incentives to electrify from all levels of government and the private industry. The challenge is in 1) educating about electrification, communicating about available resources, and braiding together programs, 2) coordinating across program and entity siloes, and 3) identifying and then filling the gaps.

To address the first challenge, utilities can and should be required to increase their communication to customers requesting new gas service to inform them of the projected shrinkage of the gas system and the associated bill increases, provide educational material about high-efficiency electric alternatives, and offer information about available rebates and incentive programs and knowledgeable contractors in their area (with examples of programs that can stack).

The second challenge may require some structural changes to the siloes between gas and electric divisions within the same utility, single-fuel gas and electric utilities, gas utilities and municipal utilities, and gas utilities and local, state, and county entities (e.g., the New York Power Authority, the New York State Energy Research & Development Authority ("NYSERDA")). Complex incentive programs and processes to realize incentives are a major barrier to deployment of clean building technologies. Ground-source heat pumps are one such example of a technology that holds great promise for efficient electrification in cold climates like New York, but for which the market has been stymied by a lack of education and layered incentives too complex for many homeowners to navigate. Though challenging, New York should consider dedicating resources to simplifying and streamlining information.

Ideally, these entities would work together to develop a simplified process by which a resident can input their information, understand a comprehensive suite of relevant programs and services offered by all their relevant jurisdictions and service providers, and be directed to a one-stop (or few-stops) link to apply for and access those programs and services. The Commission may consider being the host of this webpage with available information, a link to which would be provided to all applicants for new gas service. This is similar in concept to New York City's NYC Accelerator, which was created to help building owners comply with Local Laws 97 and 154, but on a much larger scale for residents statewide.

Finally, the Commission likely has a good (but perhaps not yet complete) understanding of the populations that are under-served by existing programs. Deepening that understanding via stakeholder processes or a Commission report that compiles information and highlights gaps is a critical first step. The state agencies may then be able to create new programs housed within the appropriate state entity (e.g., NYSERDA or Homes and Community Renewable), or work with the legislature or utilities to develop programs to fill those gaps. For example, Senate Bill 8504 (2024) would authorize NYSERDA to create a grant or loan program to help convert residents on propane or fuel-oil systems to electric heat pumps, and Senate Bill 8535 (2024) would establish a "green affordable pre-electrification program" to fix structural or other code defects that make homes otherwise ineligible for weatherization or electrification programs.

20. *Staff seeks stakeholder input on the potential impacts of modifying Part 230 on planned developments, including affordable housing, and strategies to address such impacts. (Page 25)*

United understands the challenge of changing regulations on projects already underway. A phase-in timeline is important for this reason, although new gas customers in earlier stages of project planning may be contacted and offered voluntary alternatives.

To mitigate any unintended negative consequences on affordable housing, United recommends that the Commission consider increasing the electric line extension allowances to facilities serving vulnerable populations. Additional incentives to make the affordable housing properties more energy efficient (especially via building shell and insulation improvements), so that any new electric equipment may be downsized may also be appropriate. Though an increase in upfront cost is a bad outcome that should be avoided if possible, it is equally important to ensure that low-income and energy burdened ratepayers are not locked into 10-20 years of increasing rates and bills for gas service.

III. Conclusion

We appreciate the opportunity to submit these comments and look forward to participating further in this proceeding.