STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission Regarding the Grid of the Future — **Case 24-E-0165**

MULTIPLE INTERVENORS' COMMENTS ON THE GRID FLEXIBILITY POTENTIAL STUDY AND THE GRID OF THE FUTURE PLAN

Dated: July 15, 2025

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PRELIMINARY STATEMENT

Pursuant to the *Notice Soliciting Comments* ("Notice") and the *Notice Extending Comment Period* issued by the New York State Public Service Commission ("Commission"), Multiple Intervenors,[1] an unincorporated association of approximately 55 large industrial, commercial, and institutional energy consumers with manufacturing and other facilities located throughout New York State, hereby submits its *Comments* regarding the *Grid Flexibility Potential Study* ("Study") and the first iteration of the *Grid of the Future Plan* ("Plan").[2]

Multiple Intervenors' comments relate largely to energy affordability concerns and how any Commission decision regarding the Study and/or the Plan may impact utility rates and charges and, consequently, energy affordability. Multiple Intervenors members generally support cost-effective decarbonization measures and they annually invest substantial amounts to improve the efficiency and sustainability of their operations. Many members also participate in existing programs such as demand response that provide grid flexibility services and some members may be interested in increased opportunities to provide such services. However, the customer collections that already have been approved to fund programs and initiatives in furtherance of the Climate Leadership and Community Protection Act ("CLCPA") and other State policy objectives are enormous and material increases in rates and/or charges to promote such objectives could impact energy affordability for all customers.

This concern stems in part from the Commission's *Order Instituting Proceeding*,[3] in which the Commission stated that "[e]volving the grid infrastructure and its operation to meet the

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1 This pleading reflects the views of Multiple Intervenors with respect to the issues addressed herein and does not necessarily reflect the views of each individual member.

2 Cases 24-E-0165, *Proceeding on Motion of the Commission Regarding the Grid of the Future* (April 15, 2025).

3 Cases 24-E-0165, *supra*, Order Instituting Proceeding (issued April 18, 2024) ("Order").

State's goals will require large expenditures…."[4] Although the Commission also stated that the goal of this proceeding is to support the deployment of flexible resources so that State policy objectives can be met "at a manageable cost,"[5] (i) utility rates and charges already are challenging affordability for all customers, both residential and non-residential, and (ii) recent, significant utility requests for rate relief and periodic increases in customer collections in support of State policy objectives are making it very difficult for the Commission to balance its decarbonization, energy affordability, and system reliability priorities. Material increases resulting from a new commitment of customer funding could increase the difficulty of this challenge. To be clear, Multiple Intervenors does not oppose efforts to promote the deployment of flexible resources. Its concern instead lies with the potential rate impact of such action and how those costs are allocated to and recovered from customers, may have on energy affordability for all customers.

Multiple Intervenors' Comments are organized into two points. In Point I, Multiple Intervenors expands on its energy affordability concerns and notes that both Governor Hochul and the Commission have emphasized the need to preserve energy affordability. In Point II, Multiple Intervenors explains its concern with certain assumptions presented in the Study and the Plan, and recommends that the Commission ensure that any decision it issues regarding those filings is based on objective analysis that clearly articulates potential rate impacts. Multiple Intervenors also recommends that, if the Commission establishes a funding mechanism to support the deployment of flexible resources, it should ensure that the methods utilized to allocate program costs to customers, and to design the rates used to recover program costs from customers, are developed according to cost-of-service principles.

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[4] Order at 20.

[5] *Id*. at 3.

COMMENTS

POINT I

THE COMMISSION SHOULD ENSURE THAT ANY RULING ON THE STUDY AND/OR PLAN WOULD NOT IMPAIR ENERGY AFFORDABILITY

The Commission stated in its Order instituting this proceeding that "[e]volving the grid infrastructure and its operation to meet the State's goals **will require large expenditures** that can vary significantly, depending on the grid plan that is developed and implemented."[6] The Commission also stated, however, that the objective of this proceeding is to deploy flexible resources "to achieve our clean energy goals **at a manageable cost** and at the highest levels of reliability."[7] Actually achieving those goals at a "manageable cost" will be extremely difficult, however, given that any incremental funding would be layered on the numerous CLCPA-related programs and initiatives that the Commission already has obligated customers to support. The challenge will be made even more difficult by significant increases in utility delivery rates that are driven by a variety of "traditional" pressures as well as by State policy mandates, including, but not limited to, the CLCPA.[8]

It is imperative, therefore, that the Commission remain committed to promoting energy affordability and that any actions taken in this proceeding to promote flexible resources truly strike a reasonable balance among the public interests in energy affordability, decarbonization, and system reliability. Too great a focus on any one of these objectives can create an imbalance

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6 Order at 20 (emphasis added).

7 *Id.* at 3 (emphasis added).

8 Recent changes in prevailing wage requirements and obligating utilities to locate their call centers entirely within their respective service territories, among other State policy mandates, also are driving increases in utility rates.

that may be detrimental to the other two. Significantly, an imbalance that impairs energy affordability would present risks to the economic well-being of New York State and its citizens.[9]

The Commission has acknowledged the need to preserve energy affordability while pursuing CLCPA objectives. In 2022, the Commission stated that it "recognizes that utility ratepayers are currently supporting a significant portion of the clean energy investments" incurred in furtherance of the CLCPA, and that it therefore "is critical that the State pursues the most cost-effective solutions to meeting the goals of the CLCPA to maintain energy affordability and, where possible, seek alternative funding mechanisms."[10] The Commission directed Department of Public Service Staff ("Staff") to submit annual reports on CLCPA implementation costs approved by the Commission.[11]

Staff subsequently issued its first – and, to date, only – report in 2023.[12] Staff reported that, as of 2022, the Commission had approved approximately **$43.8 billion** of funding obligations that have been or will be paid by customers in an effort to achieve a portion of the CLCPA requirements.[13] This amount did not include billions of dollars of various known costs,

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[9] State Comptroller Thomas P. DeNapoli cautioned in 2023 that it would "be important for policymakers charged with implementing the CLCPA to consider mechanisms to hold down the cost of meeting its goals on the State's electric consumers." Report by Comptroller DiNapoli, *Renewable Electricity in New York State: Review and Prospects* (dated August 2023) at 16 ("Comptroller Report"), *available at* https://www.osc.state.ny.us/files/reports/pdf/renewable-electricity-in-nys.pdf.

[10] Case 22-M-0149, *In the Matter of Assessing Implementation of and Compliance with the Requirements and Targets of the Climate Leadership and Community Protection Act*, Order on Implementation of the Climate Leadership and Community Protection Act (issued May 12, 2022) at 11 ("CLCPA Implementation Order").

[11] CLCPA Implementation Order at 46-47.

[12] Case 22-M-0149, *supra*, New York State Department of Public Service First Annual Informational Report on Overall Implementation of the Climate Leadership and Community Protection Act (dated July 20, 2023) at 29, Table 8 ("CLCPA Report").

[13] CLCPA Report at 29, Table 8.

including, for instance, transmission investments that are not subject to Commission approval but ultimately would be recovered from consumers.[14] The CLCPA Report also excluded costs to achieve the remainder of the CLCPA requirements. Those costs remain unknown but undoubtedly will be significant, and the Commission has approved a substantial amount of incremental spending since the CLCPA Report was issued.

Recent utility requests for rate relief have been substantial. They are additive to amounts collected through surcharges to support State policy mandates and further challenge energy affordability. For instance, Niagara Mohawk Power Corporation d/b/a National Grid ("National Grid") testified in its pending request for increased electric delivery revenues that "a step change in the level of infrastructure investment to meet incremental demand" driven by the CLCPA is needed.[15] National Grid, therefore, "has been accelerating the pace of investment to help the State achieve its" CLCPA goals:[16]

> In the period FY2018 – FY2021, the Company delivered electric capital investments totaling $2.226 billion, while in FY 2022 – FY 2025, it expects to deliver $4.292 billion, nearly a doubling of investment. During the period FY 2026 – FY 2029, the Company expects to deliver $8.861 billion in capital investment to be able to meet its share of the State's electric delivery system investment needs while continuing to maintain safe and adequate service for customers.[17]

The plant additions associated with these investments were one of the factors that National Grid identified as responsible for its stated need for rate relief.

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[14] CLCPA Report at 29, Table 8.

[15] Cases 24-E-0232 and 24-G-0233, *supra*, Rebuttal Testimony of the Electric Infrastructure and Operations Panel, p. 6 ("National Grid EIOP Rebuttal"). National Grid's rate proceeding culminated with the filing of a Joint Proposal that Multiple Intervenors signed and supported for reasons explained in the *Statement in Support of Joint Proposal* that it filed in that proceeding.

[16] National Grid EIOP Rebuttal at 6.

[17] *Id*. at 6-7.

A settlement agreement regarding the current Central Hudson Gas & Electric Corporation rate proceeding similarly is pending before the Commission.[18] A summary of the agreement filed with the Joint Proposal notes that the cost of energy efficiency and heat pump programs supportive of the CLCPA requirements account for a material proportion of the proposed increases.[19]

CLCPA-related cost pressures also are straining New York State Electric and Gas Corporation ("NYSEG") and Rochester Gas and Electric Corporation ("RG&E"). These utilities recently requested extraordinary ratemaking treatment to accelerate recovery of certain "proactive planning" capital investments in large part because the magnitude of capital investments planned by these utilities in support of the energy transition purportedly are stressing their cash flows and credit metrics.[20] NYSEG and RG&E also recently filed with the Commission requests for a shocking amount of electric and gas rate relief, the need for which they attribute, in part, to State-mandated policies and programs including but not limited to the CLCPA.[21]

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[18] Cases 24-E-0461 and 24-G-0462, *Central Hudson Gas & Electric Corporation – Electric and Gas Rates*, Summary of Electric and Gas Rates Joint Proposal (filed May 13, 2025) ("CHGE JP Summary"). Multiple Intervenors signed and supported the Joint Proposal for reasons explained in the *Statement in Support of Joint Proposal* that it filed in that proceeding.

[19] CHGE JP Summary at 1.

[20] Case 24-E-0364, *In the Matter of Proactive Planning for Upgraded Electric Grid Infrastructure*, Petition for Urgent Upgrade Projects and Associated Cost Recovery (filed November 26, 2024) at 34 ("NYSEG/RG&E Petition").

[21] *See, e.g.*, Cases 25-E-0375 and 25-G-0378, *New York State Electric & Gas Corporation – Electric and Gas Rates*, and Cases 25-E-0379 and 25-G-0380, *Rochester Gas and Electric Corporation – Electric and Gas Rates*, Direct Testimony of Policy Panel (filed June 30, 2025) at 35 (stating that State-mandated policies and programs, including but not limited to CLCPA-related measures, "amounts to approximately a 9% delivery rate increase, averaged across the Companies and their customer classes").

In light of these rate pressures, Multiple Intervenors appreciates Governor Hochul's attention to the issue of energy affordability for all customers. For instance, on February 11, 2025, Governor Hochul issued a letter to Commission Chair and CEO Rory Christian in which she objected to a proposal by Consolidated Edison Company of New York, Inc. ("Con Edison") to increase electric and gas delivery rates by 11.4 percent and 13.3 percent, respectively, and asserted that the proposed rate relief should "be rejected as it would burden New Yorkers who are already struggling to make ends meet after several years of inflationary pressures in the marketplace."[22] After recounting various efforts to lower costs for utility ratepayers, Governor Hochul stated that, "**[r]ight now, affordability is our greatest short-term challenge….**"[23]

Governor Hochul responded similarly to the recent NYSEG/RG&E rate filing. In response to the NYSEG and RG&E requests to increase electric delivery rates by 35.0 percent and 36.0 percent, respectively, Governor Hochul issued a Press Release which (i) noted that "New Yorkers are struggling to meet everyday costs," and (ii) "demand[ed]" that Staff "scrutinize" the utilities' proposals to protect consumers "from sky-high utility costs that are making New York State less affordable."[24]

Multiple Intervenors submits that the Commission must apply a similar level of scrutiny to potential actions in this proceeding so as to keep energy affordability in balance with other State objectives. The Commission seemingly agrees with this approach, given its statement that

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[22] Letter to Chair Christian, Governor Hochul (dated February 11, 2025) ("Letter to Chair"), *available at* https://www.governor.ny.gov/sites/default/files/2025-02/02.11.25_Governor_Kathy_Hochul_Letter_to_Rory_M_Christian.pdf. **All** customers are challenged by "years of inflationary pressures in the marketplace" whether they are (i) residential or non-residential, or (ii) served by Con Edison or located outside of that utility's service territory.

[23] Letter to Chair (emphasis added).

[24] *Governor Kathy Hochul Calls on DPS to Protect Consumers from Proposed NYSEG and RG&E Rate Hikes*, Press Release, Office of the Governor (dated July 1, 2025).

the objective of this proceeding is to deploy flexible resources "to achieve our clean energy goals at a manageable cost and at the highest levels of reliability."[25] Thus, although flexible resources may serve a useful role in the "grid of the future" under consideration in this proceeding, the Commission should not approve any program, initiative, or other course of action unless its decision is based on a careful analysis – that is articulated clearly in the order – of how such action would impact energy affordability for all customers, both residential and non-residential. Importantly, such analysis should consider the cumulative impact of any incremental funding under consideration in this proceeding together with the impact of all other CLCPA-related funding obligations previously approved by the Commission.

POINT II

THE COMMISSION SHOULD NOT APPROVE INCREMENTAL SPENDING WITHOUT CONDUCTING A COMPREHENSIVE ANALYSIS OF POTENTIAL RATE IMPACTS

Multiple Intervenors submits that the determination of whether expenditures that promote grid flexibility are "manageable" necessarily requires consideration of both (i) the magnitude of incremental costs the Commission may consider to promote the development of flexible resources, and (ii) all other known CLCPA-related costs that are impacting customer bills. The Commission has been overseeing the vast majority of programs and initiatives that are being implemented to achieve a portion of the CLCPA goals. To date, however, no clear and comprehensive accounting of the likely costs necessary to achieve those goals has been issued. It is exceedingly difficult to develop a policy roadmap that pursues decarbonization and system reliability while maintaining – or, at least, not further degrading – energy affordability when the costs necessary to achieve that goal are not known. The overall cost to achieve the CLCPA

[25] Order at 3.

mandates should be estimated so that the Commission has data necessary to inform its potential funding decisions in this proceeding.

Such decisions also need to rest on objective analyses and reliable information. It is unclear if all assumptions underlying the grid flexibility potential estimated in the Study, however, truly are reasonable and achievable as claimed. For instance, the Study estimates that a material amount of behind-the-meter storage capacity could be deployed in New York City if permitting constraints are alleviated. The Study, however, seemingly does not acknowledge or discuss what likely would be a very difficult and lengthy process to alleviate those constraints. Also, forecasts and estimates are inherently inaccurate and, generally, this uncertainty increases with the length of the study horizon. There also is a risk that achievable benefits might be over-stated and costs to achieve them underestimated if some of the assumptions underlying the Study are overly-optimistic.

For instance, the Study apparently indicates that the cost to implement the grid flexibility measures identified therein would be approximately $306 million statewide.[26] The Study, however, categorizes $2.392 billion of "Participant Incentive Payments" as a "Financial Benefit to Customer" and not as "Implementation Costs."[27] Given that all or almost all incentives that the Commission has approved to date for participation in a CLCPA-related program or initiative have been funded by customers, it is unclear why Participant Incentive Payments are not presented as an Implementation Cost. Also, the Study identifies barriers to the deployment of flexible resources as well as potential solutions to those issues. The potential solutions include various measures that likely would increase customer costs including, for instance: (1) recommending that the Commission "[p]rovide performance-based incentives to utilities for

[26] Study at 45.

[27] *Id.*

meeting grid flexibility goals…;" (2) allowing "utilities to earn a return on spending on grid flexibility programs;" (3) recommending that the Commission "[c]onsider additional incentives/referral bonuses for contractors to enroll customers in flexibility programs;" and (4) recommending additional cybersecurity investments.[28] These potential costs also should be accounted for in the Study and the Plan, as well as the rate impact analysis that Multiple Intervenors recommends. Further, due to uncertainty regarding the achievability of, and the cost to achieve, the flexibility potential estimated in the Study and the true cost to achieve a material amount of that potential notwithstanding barriers to resource development, the Commission should use the Study only to inform its decision making process and not rely on the estimates presented therein as either accurate or precise.

The Commission should conduct a rate impact analysis before concluding whether any potential amount of incremental spending is "manageable" and in the public interest. The analysis should (i) consider impacts to all customers, both residential and non-residential (including large non-residential end-use consumers), (ii) determine how utilities would allocate costs to their service classes, and (iii) determine the design of rates that would be used to recover those costs. The results of this analysis should be reported and used to explain how any incremental customer collections that might be approved are "manageable" for <u>all</u> customer types; it is not sufficient to estimate and consider the potential impact solely for residential customers. The allocation methodology used to assign cost responsibility for incremental customer-funded incentives, and the rates designed to recover those costs, could result in disparate impacts across a utility's service classes and among customers of different sizes within

[28] Study at 56, 58, and 60.

its individual service classes, and the Commission should account for these potential effects in its analysis and discussion.

The analysis that Multiple Intervenors recommends also should include an accounting of amounts that customers already have paid for the development of utility DSIPs as well as the likely cost to achieve the final DSIP. The Commission stated in its Order that an "in-depth review" of the utility DSIPs is necessary "to determine if they adequately identify, characterize, and plan for the full range of DSP capabilities that will be foundational to supporting the State's clean energy and electrification goals."[29] The Study reports that the utilities have developed their respective DSIPs to varying degrees and more work is needed for those plans to support the deployment of a fully functional DSP. The Study concludes that the DSIPs cannot meet this objective because they lack "established goals and capabilities that clearly describe a fully functional DSP…."[30]

This finding is concerning. After a decade of work at a likely statewide cost of tens (or hundreds) of millions of dollars, Multiple Intervenors submits that the utility DSIPs should be able to articulate the capabilities necessary for a fully functional DSP and each utility should have a defined plan to achieve that goal at a reasonable cost to customers. However, the Study concludes explicitly that "significant financial investments" will be necessary to develop and implement the "technologies, systems, and processes" necessary for grid modernization in support of the utility DSPs.[31] These costs "create strong headwinds to progress" and the Study concludes that "[r]atepayer funding remains a critical factor affecting the pace of grid

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29 Order at 10.

30 Study at 35.

31 *Id*. at 28.

modernization and the clean energy transition."[32] These findings and statements heighten the need for the Commission to center affordability concerns in its decision making process and ensure that customers do not pay excessive amounts for the lengthy development of an undefined system. The Commission should be willing to scale back DSIP/DSP scopes and/or timelines if necessary to avoid material rate increases.

If the Commission considers directing customers to subsidize flexible resource development and continue funding DSIP development, then it should evaluate the impact of both spending decisions together, and in the context of other rate pressures, when evaluating rate impacts and whether the potential action would result in a "manageable" cost.

Importantly, the Study notes that funding may be available from sources other than consumers.[33] Multiple Intervenors agrees that other sources of funding should be pursued and utilized to the greatest extent practicable. Importantly, however, any such amounts received should be used to reduce customer collections rather than increase spending.

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[32] Study at 28.

[33] *Id.*

CONCLUSION

Multiple Intervenors recommends that the Commission rule on the Study and Plan consistent with the recommendations advanced herein.

Dated: July 15, 2025
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Respectfully submitted,

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