STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 20-E-0380 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Niagara Mohawk Power Corporation d/b/a National Grid for Electric Service.

CASE 20-G-0381 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Niagara Mohawk Power Corporation d/b/a National Grid for Gas Service.

REPLY STATEMENT OF SIERRA CLUB AND NATURAL RESOURCES DEFENSE COUNCIL

The Sierra Club and Natural Resources Defense Council respectfully submit this reply statement regarding the Joint Proposal.

As other parties affirmed in their initial statements, in rate cases going forward the Commission should require more from utilities to demonstrate compliance with the Climate Leadership and Community Protection Act (CLCPA).[1] National Grid's initial statement is instructive in how this could be accomplished. The Company provided estimates of carbon dioxide equivalent (CO2e) reductions that it projects would be achieved from a number of different elements of the Joint Proposal including electric energy efficiency, gas energy efficiency, building electrification earnings adjustment mechanism (EAM), transportation electrification EAM, Volt VAR optimization, non-wires alternatives, SF6 circuit breakers,

[1] *See, e.g.,* Statement of Neutrality on Joint Proposal by Environmental Defense Fund (Oct. 22, 2021), at 6 ("The Commission must establish clear standards for utilities, and clear standards for utility rate cases, that will ensure New York's climate goals can be met and facilitate decarbonization of the energy system, which will require dramatic GHG emissions reductions."); Statement on the National Grid Upstate Joint Proposal by Alliance for a Green Economy (Oct. 22, 2021), at 3 (urging the Commission "to act in other proceedings to ensure that the CLCPA mandates are met in a cost effective and timely manner.")

advanced metering infrastructure, LED conversions in outdoor lighting programs, and leak-prone pipe removal.[2] At the same time, however, the Company declined to estimate the emissions impacts of other climate-relevant elements of the Joint Proposal including non-pipe alternatives, targeted reduced gas usage, gas marketing/alternate fuel promotion, electric vehicle programs, energy storage, and facilities and fleet upgrades.[3] The Company's ability to estimate the CO2e impacts of many of its policies strongly suggests that a more complete quantitative analysis of greenhouse gas (GHG) impacts would be possible in future rate cases, particularly if the Company were on notice from the Commission prior to filing that such analysis was required. Robust quantitative analyses will be critical to evaluating the consistency of utility rate filings and rate settlements with the State's CLCPA mandates in future rate cases and should be required by the Commission going forward.

The Commission should decline to enshrine the highly un-quantitative approach taken by Staff in its initial statement in support of the Joint Proposal. Without delving into the climate implications of specific components of the proposal or the trajectory that the Company's GHG emissions would need to be on in order to achieve consistency with the CLCPA's climate mandates, Staff simply asserts that, "[t]aken as a whole, the Joint Proposal will contribute to the goals of the CLCPA while satisfying the Company's obligations under the [Public Service Law] to provide safe and adequate service to its ratepayers."[4] As noted, the Company's initial statement demonstrates that a more quantitative approach is achievable. Such an approach is also necessary to truly evaluate the consistency of any rate proposal or rate settlement with the

[2] *See* Statement of Niagara Mohawk Power Corporation d/b/a National Grid in Support of Joint Proposal (Oct. 22, 2021), at 126-30 (NiMo Initial Statement).
[3] *See id*. at 126-33.
[4] Staff Statement in Support of the Joint Proposal (Oct. 22, 2021), at 10.

CLCPA's GHG emissions mandates. The Commission should require this type of quantitative approach in future rate cases.

The Company's GHG quantification for a number of its programs is also instructive in revealing which programs are more and less cost-effective as GHG-reduction strategies. Of particular note, the Company's GHG quantification reveals that its leak-prone pipe replacement programs are *not* a highly cost-effective strategy for reducing climate pollution from the Company's system. Despite proposing to spend $268 million on replacing leak-prone mains between FY22 and 25,[5] the Company projects only 53,600 tons of CO2e reductions from its leak-prone pipe replacement programs,[6] a cost per ton of $5,000. By contrast, the Company projects spending approximately $56 million on gas efficiency programs during the three rate years of the case under the Joint Proposal[7] and achieving 234,260 tons of CO2e reductions,[8] a cost per ton of $240—approximately 1/20th the cost per ton of the leak-prone pipe replacements. Given the massive customer burden of the Company's leak-prone pipe replacement program and the ability of more surgical leak detection to rapidly identify the most significant leaks for targeted pipe replacement, in future rate cases the Commission should carefully scrutinize the justification for wholesale systemwide pipe replacement, particularly given the uncertainty around the long-term need for the entire gas distribution system in a heavily electrified future.

The Company's disproportionate burden analysis also highlights the need for additional Commission guidance on how to implement Section 7(3) of the CLCPA. Section 7(3) of the CLCPA requires state agencies to ensure that their decisions "shall not disproportionately burden

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[5] Joint Proposal Appendix 1, Schedule 5, at 2 of 18.
[6] NiMo Initial Statement at 130.
[7] *See* Joint Proposal Appendix 1, Schedule 2, at 2, 17, 29 (identifying gas efficiency spending as $16.616 million in RY1, $18.631 million in RY2, and $21.266 million in RY3).
[8] NiMo Initial Statement at 127.

disadvantaged communities." It also requires state agencies to "prioritize reductions of greenhouse gas emissions and co-pollutants in disadvantaged communities." In the Company's initial statement on the Joint Proposal, the Company appears to flip the statutory burden, arguing merely that "[t]he record is devoid of any evidence or suggestion that 'disadvantaged communities' would be disproportionately burdened as a result of the proposed settlement."[9] The absence of record evidence of disproportionate impacts should not be the standard for evaluating compliance with Section 7(3) going forward. Rather, the Section 7(3) analysis, like the Section 7(2) climate analysis, should affirmatively consider and, ideally, quantify, the equity impacts of each component of the rate case or settlement.

A more robust equity analysis is particularly important in rate cases going forward because of the magnitude of the investments under consideration and the equity implications of the reliance on planning assumptions that do not reflect and internalize the full requirements of the CLCPA. As EDF explains in its initial statement, "[t]here is a fundamental disconnect between state climate policy and the operational and cost recovery assumptions employed by many New York gas utilities," with "many gas utilities continu[ing] to rely on traditional assumptions that they will maintain and expand their existing gas distribution systems and depreciate assets at historic rates."[10] Consequently, "continuing a business-as-usual approach to depreciation will entail a significant burden on future gas consumers" as the cost of reducing the expense to current gas consumers, and this burden can be expected to fall disproportionately on lower-income ratepayers.[11]

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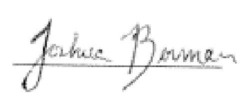
[9] *Id.* at 133.
[10] EDF Initial Statement at 11.
[11] *Id.* at 12.

Potential adverse impacts to lower-income ratepayers are further exacerbated in this rate case by the heavy reliance on one-time deferrals. As PULP explains in its initial statement on the Joint Proposal, "the use of such a large amount of regulatory liabilities and excess ADIT, while laudable, reflects a need for further austerity ratemaking that was not achieved in this case."[12] One-time deferrals bake in future rate increases while masking the near-term impacts to ratepayers. Because these rate increases will fall hardest on lower-income ratepayers, the impacts should be evaluated in the Section 7(3) analysis. Going forward, the Commission should mandate a more rigorous and robust Section 7(3) analysis for rate cases.

Finally, language in the Company's initial statement in support of the Joint Proposal reinforces one of the points raised in Sierra Club and NRDC's initial statement of neutrality.[13] The Company characterizes its billed gas reduction commitment as an "aspirational target" to offset forecast levels of gas growth over the term of the rate plan.[14] While we understand the Company's need to qualify its ability to achieve its committed reductions in billed gas usage given the influence of some factors beyond the Company's direct control, we hope and trust that the Company views and treats these commitments as more than simply "aspirational targets." The efficacy of the Joint Proposal to advance New York's climate mandates hinges on the Company's diligent efforts to effectuate all of its commitments in the Joint Proposal.

Dated: November 5, 2021

Respectfully submitted,



[12] Statement of the Public Utility Law Project of New York in Opposition to the Joint Proposal (Oct. 22, 2021), at 6.
[13] Statement of Neutrality of Sierra Club and Natural Resources Defense Council (Oct. 22, 2021) at 13-14 (explaining that "the real world value of many of the Company's commitments in the Joint Proposal will depend on how seriously and rigorously the Company implements them").
[14] NiMo Statement in Support at 114.

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