

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

Petition of The Brooklyn Union Gas Company d/b/a National
Grid NY and KeySpan Gas East Corporation d/b/a National Grid Case G-0384
for Authorization to Permit their Existing Base Tariff Rates to
Remain in Effect During the Year Ending March 31, 2028 and
Other Related Relief.

**COMMENTS OF AARP NEW YORK
URGING REJECTION OF NATIONAL GRID'S PETITION**

September 23, 2026

Beth Finkel
Saul A. Rigberg, Esq.
AARP New York
One Commerce Plaza
Albany, NY 12260

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

CASE 26-G-0384 – Petition of The Brooklyn Union Gas Company d/b/a National Grid NY and KeySpan Gas East Corporation d/b/a National Grid for Authorization to Permit their Existing Base Tariff Rates to Remain in Effect During the Year Ending March 31, 2028 and Other Related Relief.

**COMMENTS OF AARP NEW YORK URGING REJECTION OF
NATIONAL GRID’S PETITION**

AARP New York appreciates the opportunity to provide comments on a proceeding that highlights a flaw in New York Public Service Law (PSL). This flaw allows a utility to request and the Public Service Commission (PSC or Commission) to approve significant new rate mechanisms and costly infrastructure projects without meaningful public transparency and involvement by affected ratepayers and parties.

AARP New York urges the PSC to either reject the filing outright or administer the filing as if it were a major change in rates as set forth in PSL §§ 66(c), (f) and (i). While the first approach is preferable because it is simpler, the second approach would: (1) place the burden of proof on the utility; (2) improve transparency by obligating the utility and Department of Public Service (DPS) Staff to file testimony that could be subject to discovery and cross-examination; and (3) require the assignment of an administrative law judge (ALJ) who would establish a schedule and ensure that intervenors receive due process, including resolution of discovery disputes. This would be a notable improvement over the current situation whereby DPS Staff is not a party and therefore is not obligated to respond to information requests or advise parties of their reactions to the utility’s proposals. It would also prevent DPS Staff and the utility from negotiating between themselves out of public review.

On May 29, 2026, KEDLI and KEDNY (the Companies or National Grid) filed a Petition requesting authorization to extend their existing base tariff rates that are part of their current

three-year rate plan through the rate year ending March 31, 2028 (the Petition).¹ In addition to the claim of freezing rates during what the Companies call the Fourth Rate Year, the “Rate Stabilization Proposal” contained in the Petition also includes: (a) requiring ratepayers to fund new infrastructure projects costing \$1.7 billion²; (b) establishing new regulatory liabilities of \$162 million for KEDNY and \$86 million for KEDLI³; (c) converting the Companies’ existing downward-only Net Utility Plant and Depreciation Expense Reconciliation Mechanisms to two-way tracking mechanisms during Rate Year Four; (d) establishing new tracking mechanisms to defer temporarily recovery of incremental costs of net utility plant, depreciation expenses, and property taxes; (e) introducing a new surcharge to allow future recovery of deferred costs related to property taxes and site investigation and remediation activities; and (f) lowering current PSC-endorsed *safety* targets for leak-prone pipe replacement and leak backlogs without decreasing program budgets to help pay for the so-called rate freeze.

Procedural Flaws

The Commission Secretary issued a “Notice Establishing Comment Deadline” on June 23, 2026. The decision to administer National Grid’s filing as a “comment-only” proceeding has the effect of hiding DPS Staff’s deliberations and negotiations with the Companies from public scrutiny. In comment-only proceedings, senior advisors to the PSC often directly engage with the utility both before the filing to help shape it as well as during the review process to make adjustments suggested by the members of DPS Staff who are analyzing the filing with the objective of securing PSC approval without facing any hurdles.

The PSC has the option in a non-major rate case situation not to require the utility to meet any burden of proof through pre-filed testimony, discovery, and cross-examination and to insulate DPS Staff from having to respond to discovery requests by intervenors to even speak with intervenors. The PSC has other options as well that comport with transparency and fairness and

¹ Case 26-G-0384, *supra*, Verified Petition of the Brooklyn Union Gas Company d/b/a National Grid NY and KeySpan Gas East Corporation d/b/a National Grid (filed May 29, 2026).

² The total infrastructure project spend can be derived by summing the amounts listed on page 13 of the Petition. For more detailed information, refer to two documents posted on the DPS Document Matter and Management web site by an intervenor. <https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={60E081A0-0000-C637-B8B0-809BAC1FEFED}&DocTitle=FY28%20KEDNY%20Petition%20White%20Papers> and <https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={60E081A0-0000-C983-BAF8-80F32F93CEE2}&DocTitle=FY28%20KEDLI%20Petition%20White%20Papers>

³ These and subsequent proposals listed can be found in the Petition in various places including pages 1-2 and 8-10.

other democratic values. Here, the Commission chose not to avail itself of its authority to require hearings “in such other cases as the commission may direct,”⁴

As the Commission Secretary explained in another proceeding involving National Grid:

Sane Energy’s request that staff and PA [its consultant] be compelled to Sane Energy’s discovery requests lacks a foundational basis in the Commission’s regulations governing discovery, 16 NYCRR Part 5 (Part 5). Sixteen NYCRR Section 5.1(a) explains that discovery is required among parties to a proceeding. **In this case, staff is not a party to the proceeding.** Further, 16 NYCRR Section 5.8 defines the scope of discovery as information that “the requesting party expects to use in cross-examination or in preparing its case.” **As the Commission stated in the Gas Planning Process Order, “[t]he gas system planning process we adopt in this Order will not involve the presentation of direct testimony or the cross-examination of witnesses,” i.e., an evidentiary hearing.** [16 NYCRR Section 4.1]. **The Commission has the authority to determine when to require evidentiary hearings [16 NYCRR Section 1.2(h)],** and decided against requiring evidentiary hearings in the proceedings concerning the gas utilities’ long-term plans.⁵

Arguably, many policy proceedings exploring new initiatives benefit from an informal structure involving technical conferences, working groups, and straw proposals. The Reimagining the Energy Vision (and its related proceedings), the Energy Affordability Policy, and the Renewable Portfolio Standard proceedings are examples of comment-only proceedings in which DPS Staff fully engaged with stakeholders.

In contrast, proceedings that focus on one utility such as prudence investigations, system planning, or modifications to existing rate plans should be administered with the same due process attributes of a major rate case. AARP New York finds no substantive distinction between the impact on New York City and Long Island ratepayers of a major rate case and National Grid’s proposals for new infrastructure projects that will eventually cost \$1.7 billion and to weaken the safety elements of the existing rate plan as well as to increase spending that

⁴ 16 NYCRR § 4.1.

⁵ Case 24-G-0248, Review of KEDNY and KEDLI’s Long-Term Gas Systems Plans, Letter from the Secretary to Sane Energy, May 31, 2025, at 2; emphasis added.
<https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={4030ED95-0000-C21B-9D21-95EA8E321DC3}&DocTitle=Ruling%20on%20Motion/Extension%20Request>

will be recovered in later years. As the Department of State's Utility Intervention Unit, a sister state agency of the PSC and DPS, observed: "the scope, complexity, and potential ratepayer impact of the relief sought in the Petition exceeds what can be meaningfully evaluated through a comment-only process."⁶

KEDLI and KEDNY's system planning proceeding earlier is an excellent example of the misuse of the comment-only approach that does not require submission of testimony or cross-examination or meeting a burden of proof. The original purpose of the proceeding was to examine how the Companies would gradually transition away from use of fossil fuels. The end result of the proceeding was to authorize construction of the Williams Companies' NESE pipeline, the cost of which the Companies admitted would exceed annually the threshold for a major rate case. The City of New York explained:

Moreover, according to the [National Grid] Addendum [at page 35], the costs of the NESE Project will likely constitute a "major change" to National Grid's rates and charges under N.Y. Public Service Law ("PSL") § 66, defined as any increase in rates and charges that would increase aggregate utility revenues by the greater of \$300,000 or 2.5%. Among other things, PSL § 66 requires the Commission to hold a hearing on any "major change" and make a determination on the utility's compliance with its most recently completed management and operations audit.

According to National Grid, the costs of the NESE Project are forecasted to increase the average residential bill by \$7.61 and \$7.44 per month for KEDNY and KEDLI, respectively, which equates to a 3.5% increase per month for each company. Substantively, this is wholly unacceptable, as our City faces an affordability crisis that threatens the ability of families and small businesses to live comfortably and healthily in New York City. This also impermissible as a question of procedure, as it is above the 2.5% threshold for a "major change," and therefore the hearing and other associated requirements of PSL § 66 are arguably triggered by National Grid's request to recover costs of the NESE Project. These requirements can be best satisfied within the context of National Grid's upcoming rate case, where the need for the NESE Project can be properly vetted and an appropriate evidentiary record can be established.⁷

⁶ Case 26-G-0384, *supra*, Motion of the Utility Intervention Unit for Procedural Relief, August 14, 2026, at 4. <https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={20E201A0-0000-CA1D-95F1-CC1EB5DBA77C}&DocTitle=UIU%20Motion%20for%20Procedural%20Relief>

⁷ Case 24-G-0248, *supra*, Comments of the City of New York on National Grid's Long-Term Gas Plan Addendum and Pa Consulting Report, September 5, 2025, at 7-8; emphasis added.

New York City's comments apply perfectly to this proceeding.

Another important negative feature of a comment-only proceeding is that DPS Staff has no obligation to speak with any intervenor or share information, analyses, or responses to the utility's filing, and the like. This applies as well to a sister executive agency, the Department of State's Utility Intervention Unit. Not even the most sophisticated or wealthy intervenor can match the expertise and resources of DPS Staff. Intervenors in rate cases rely on DPS Staff's knowledge as well as their analyses, counter proposals, and conclusions whether or not they ultimately agree with those analyses, counterproposals, or conclusions. Technical conferences, white papers, and straw proposals in policy proceedings also often allow interchange of information and perspectives. This reliance is appropriate because DPS Staff's vast knowledge and deep experience are made possible by the billions of dollars of ratepayers' money paid over the decades to fund the PSC and DPS.

Potential Weakening of Health and Safety Programs

The Companies seek approval in their Petition to reduce in Calendar Year 2027 the number of miles of leak prone pipe (LPP) replacements compared to Calendar Year 2026 – 129 miles for KEDLI and 51 Miles for KEDNY. Instead, National Grid is proposing 121 miles for KEDLI and 46 miles for KEDNY but would keep the money not spent on the additional miles for itself to help fund their so-called rate freeze.

This proposal should not be taken lightly. In its Order approving the mileage requirement in the prior joint proposal, the Commission strongly emphasized the importance of LPP replacement:

Regarding public safety, even functional LPP presents a risk in light of its increased potential for leaks and pipe failures, which may result in dangerous and hazardous conditions such as fire and explosions. Thus, as we have previously explained, public safety considerations prevent us from directing utilities to defer replacement or removal of LPP in favor of addressing only identified leaks. Moreover, the Companies prioritize retirement of LPP segments according to risk and the Joint Proposal provides a high-risk mileage target incentive for the Companies to focus on retirement or replacement of their riskiest pipe over the term of the rate plan, as noted above. Based on public safety considerations alone, retirement or

replacement of LPP in the manner set forth in the Joint Proposal cannot be deemed to be contrary to the public interest.⁸

National Grid also seeks approval to reduce the Commission-approved number of leaks it would fix, again without adjusting the budget allocation to that program.. In the Order at pages 92-93, the Commission stated that “the provisions of the Joint Proposal that address these metrics are also reasonable and in the public interest.” The metrics include negative revenue adjustments (NRAs) for failing to meet annual leak repair targets. KEDNY and KEDLI propose to establish leak backlog targets for CY 2027 of 650 total leaks for KEDNY and 800 total leaks for KEDLI, reductions from the Commission-approved targets of 150 and 450, respectively. The Companies also propose that the leak backlog targets used in the Companies’ gas safety metrics would reflect a 20 percent deadband such that KEDNY would not incur an NRA if its end-of-the-year backlog was 780 leaks or fewer and KEDLI would not incur an NRA if its total leak backlog was 960 leaks or fewer. Since the Companies are well aware of their capabilities, this proposal would ensure they are not susceptible to NRAs and would allow them to retain the money saved by repairing only 80 percent of the Commission-approved number of leaks.

National Grid’s Assertion That It Would Have to File for Large Rate Increases

National Grid states in its Petition on pages 4-5 that the rate case filings it prepared “would propose significant bill increases compared to the Companies’ current Rate Year Three base rates primarily due to costs outside the Companies’ control. Granting this Petition will eliminate the need for those increases entirely, preserving rate stability for customers for an additional year.” This assertion raises several questions. If the Petition’s proposals are adequate to allow the Companies to meet their credit rating metrics without revenue increases, then why do the Companies routinely file for double-digit rate increases? If the Petition’s proposals are adequate to allow the Companies to meet their credit rating metrics without revenue increases, then why cannot these proposals sustain the Companies for more than one year without large rate increases?

⁸ Cases 23-G-0225 and 23-G-0226, KEDNY and KEDLI – Rates, Order Approving Terms of Joint Proposal and Establishing Gas Rate Plans, With Minor Modification and Corrections (issued August 15, 2024), at 89-90.

AARP New York agrees that stable rates are attractive, especially, as the Petition notes, “at a time when many households and businesses continue to face economic pressures from inflation and rising costs.” The Petition continues:

Beyond these immediate savings, the Rate Stabilization Proposal delivers certainty and predictability for customers’ energy costs. Rate stability is particularly important in the current economic environment, where customers have faced, and will continue to face, uncertainty from multiple sources, including commodity price volatility, supply chain disruptions, and broader macroeconomic conditions. The Commission has repeatedly recognized rate stability as a core principle of just and reasonable rates. This Petition promotes that principle by offering customers continued protection from rate volatility while preserving the Companies’ ability to fulfill their service obligations and maintain financial stability. The Companies’ willingness to pursue this Rate Stabilization Proposal, rather than seek full recovery of their anticipated revenue requirements through a traditional rate case filing, reflects their commitment to customer affordability.

The elephant in the room, however, is what DPS Staff warns intervenors about when they seek to cut proposed rate increases by putting off an initiative or project for another year, namely, the creation of a “hockey stick.” The Companies’ proposals would create a huge credit card debt that ratepayers would harm ratepayers for many years to come. This statement applies not only to the \$1.7 billion in infrastructure projects that would be locked into rate base and creation of regulatory liabilities but to the other aspects of the Petition as well. If the Companies can meet their burden to prove that they truly need the extra revenues that would be contained in a rate case filing, this money will be needed in spades in future years. Moreover, there is no indication that the economic hurdles facing residential ratepayers will become less acute in the year after the Fourth Rate Year.

Conclusion

AARP New York urges the PSC to allow intervenors and the public to participate fully and meaningfully in a proceeding that will affect New York City and Long Island for years to come. The Commission should either reject the filing outright or administer the filing as if it were a major change in rates as set forth in PSL §§ 66(c), (f) and (i). This would (1) place the burden of proof on the utility; (2) create transparency by obligating the utility and Department of Public Service (DPS) Staff to file testimony that could be subject to discovery and cross-examination; and (3) require the assignment of an administrative law judge (ALJ) who would establish a

schedule and ensure that intervenors receive due process including resolution of discovery disputes. This would be a notable improvement over the current situation whereby DPS Staff is not a party and therefore is not obligated to respond to information requests or advise parties of their reactions to the utility's proposals. It would also prevent DPS Staff and the utility from negotiating between themselves out of a public review.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Beth Finkel", with a stylized flourish at the end.

Beth Finkel
State Director
AARP New York

September 23, 2026