Annual Report

Fiscal Year 2011 -2012

New York State Department of Public Service

Garry A. Brown/Chairman
Andrew M. Cuomo/Governor

MISSION STATEMENT

The mission of the New York State Department of Public Service is to:

- *Ensure safe, secure, and reliable access to electric, gas, steam, telecommunications, and water services for New York's residential and business consumers, at just and reasonable rates*

- *Seek to stimulate innovation, strategic infrastructure investment, consumer awareness, competitive markets where feasible and the use of resources in an efficient and environmentally sound manner.*

The Department of Public Service has a broad mandate to ensure that all New Yorkers have access to reliable utility services. The Department is the staff arm of the Public Service Commission. The Commission regulates the state's electric, gas, steam, telecommunications, and water utilities. The Commission is charged by law with responsibility for setting rates and ensuring that adequate service is provided by New York's utilities. In addition, the Commission exercises jurisdiction over the siting of major gas and electric transmission facilities and has responsibility for ensuring the safety of natural gas and liquid petroleum pipelines.

Bipartisan by law since 1970, the Commission consists of up to five members, each appointed by the Governor and confirmed by the State Senate for a term of six years, or to complete the unexpired term of a former Commissioner. The Chairman, designated by the Governor, is the chief executive officer of the Department of Public Service.

Agency Building 3, Empire State Plaza, Albany, NY

Message from the Chairman . . .

The Fiscal Year beginning April 1, 2011 to ending March 31, 2012 was a busy one for the Public Service Commission and the Department of Public Service. Our continually evolving industries required an increased level of regulatory oversight by the Commission and staff. Last year, the Commission issued 621 orders, a 17 percent increase from 531 orders issued in 2010. In fact, the 2011 calendar year saw the highest total of orders issued since 2008. The decisions the Commission makes required the assistance of a dedicated and focused team. Below is a summary of actions taken during the 2011-2012 Fiscal Year.

ENSURING JUST AND REASONABLE RATES

The Commission voted to hold National Grid customers' electric delivery bills to a zero increase in 2011. In addition, the Commission approved lowering National Grid's residential electricity delivery bills by an average of 11 percent and up to 44 percent for some commercial and industrial customers in 2012.

The Commission authorized Orange & Rockland to increase electric base revenues by $26.6 million — 12.1 percent on total system delivery revenues and 4 percent on a total electric bill basis starting in July 2011. The company originally sought to increase electric delivery revenues by $47.8 million or a 22 percent delivery increase.

Funding for low-income natural gas programs administered by the New York State Energy Research Development Authority (NYSERDA) was increased by $18.7 million, resulting in about $75 million annually directed toward low-income electric and natural gas programs statewide.

ENSURING SAFETY AND RELIABILITY

To ensure safety and reliability, the Commission granted approval to NRG Astoria to construct a 1,040 MW electric generating facility to replace an existing 600 MW facility located at an industrial site in Long Island City. This repowering project will replace older units with state-of-the-art combined cycle unites operating primarily on natural gas. The new units will provide reliability and environmental benefits.

Approval was granted for the New York Independent System Operator (NYISO) to borrow up to $45 million for the purposes of renovation and construction at two facilities, one in Town of Guilderland, Albany County, and the other in Town of East Greenbush, Rensselaer County. The NYISO will construct a new state-of-the-art primary control center and office space.

Also, the Commission adopted eight recommendations to improve utility practices regarding high-voltage transmission right-of-way vegetation management, including strengthening public notification; and issuing a policy statement that establishes regulatory policies and sets forth guidelines for utilities to follow regarding the development of smart grid systems and associated efforts to modernize the electric grid.

PROMOTING ENERGY EFFICIENCY

The state's energy efficiency programs under the Energy Efficiency Portfolio Standard (EEPS) remain critically important for the state's energy future, as energy efficiency is the most cost-effective and immediate way to reduce the burden of rising energy costs on residential and business customers.

The Commission reauthorized EEPS programs with $510 million in annual funding designed to reduce consumption of electricity and natural gas, while spurring creation of an infrastructure to support energy efficiency-related jobs.

With respect to demand response, which can help ensure reliability and promote the efficiency of the electric system, National Grid implemented a plan to expand mandatory hourly pricing (MHP) to customers with demand greater than 250 kW. Previously, the utility was only required to offer MHP pricing to customers with a demand greater than 500kW.

Additionally, NYSEG and RG&E were permitted to eliminate the 100kW demand threshold for customer eligibility for electric non-residential commercial and industrial customer-rebate energy efficiency programs.

Con Edison continually had the highest loads during the summer months and to redress this situation, the company proposed changes to two demand response programs — Rider S and Rider T — to reduce system peak load, wherein, large commercial or industrial program participants receive financial incentives to reduce load during events which are called by the company when the day-ahead forecasted load level is at least 96 percent of the forecasted summer system-wide peak.

Con Edison also implemented a Steam Demand Response Pilot Program that includes winter and summer programs to reduce load during peak periods, and a Customer Sited Supply Pilot Program that would allow the company to purchase steam from customers with combined heat and power facilities on their premises.

DEVELOPING RENEWABLE ENERGY RESOURCES

Marble River Wind Farm was approved to install what will be the largest wind turbines in New York located in the Towns of Clinton and Ellenburg, Clinton County. Stony Creek Energy LLC’s wind energy project was authorized and consists of up to 59 wind turbine generators ranging up to 430 feet in total height in the Town of Orangeville, Wyoming County.

National Grid will continue to offer lower rates to commercial customers who install environmentally friendly on-site generation technologies, such as small wind turbines and photovoltaic panels. In addition, Grid was directed by the Commission to allow rate exemptions for combined-heat and power technologies that can meet efficiency standards.

New York’s Renewable Portfolio Standard (RPS), which seeks 30 percent of energy consumed in the state by 2015 would come from renewable resources, is intended to help reduce the state’s dependence on fossil fuels, thereby enabling all of us to gain greater control of our energy future.

A series of changes was authorized in the RPS program to provide additional opportunities for residential and commercial customer to participate in the program and receive funding to install renewable energy devices. Encouraging homeowners and businesses to install renewable energy technology under the RPS also directly helps them lower their energy bills.

EXPANDING CONSUMER CHOICES

The Commission authorized construction of a St. Lawrence Gas natural gas transmission pipeline extending 48 miles into northern Franklin County from the company’s pipeline in St. Lawrence County. Also authorized was a new 50-mile network of distribution lines to expand the natural gas delivery service to nearly 2,500 customers in these two counties.

Additionally in St. Lawrence County, the Commission approved the construction of a high-technology broadband and cable television system by SLIC. The entire project as planned would deliver advanced broadband services to more than 5,000 households and businesses in northern and southern portions of the county.

STRENGTHENING THE STATE'S ECONOMY

NYSEG was permitted to spend $5 million to offset the cost of improving transmission lines that service Agro-Farma Inc.'s manufacturing plant in Chenango County. Agro-Farma is one of New York's largest dairy product manufacturers. It is in the midst of a major expansion.

Meanwhile, petitions of National Grid, NYSERDA and NYSEG were approved by the Commission to provide up to $18 million for economic development assistance to communities and customers impacted by devastating effects of Hurricane Irene and Tropical Storm Lee in late August and early September of last year.

MONITORING AND REVIEWING UTILITY ACTIONS

During Fiscal Year 2011-2012, staff of the Department of Public Service provided several reports to the Commission, including the drafting of regulations needed to implement Governor Cuomo's Power NY Act of 2011 — an omnibus energy package that encourages new investments in electric generating facilities across New York.

Staff also assessed the electric service reliability and customer-service performance by electric and natural gas utilities in New York. Overall staff was pleased with the reliability of electric service and satisfactory customer service performance.

Staff delivered a positive report on utility compliance with the Commission's electric safety standards. These standards were established by the Commission to help ensure the safety of the public from stray voltage and to enhance the reliability of the electric system. Stray voltage shocks were down slightly last year.

Lastly, staff reported on its examination of natural gas local distribution companies' performance in three areas pertaining to safety — damage prevention, emergency response, and leak management. Overall, companies improved their safety performance.

Garry A. Brown
Chairman

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I. AUDITS AND INVESTIGATIONS

Update on Utility Audit Matters

The Public Service Commission received a report at the April 2011 session from Department staff related to ongoing management audits of Iberdrola S.A., Iberdrola USA, New York State Electric & Gas (NYSEG), and Rochester Gas & Electric (RG&E), and Central Hudson Gas and Electric (Central Hudson); and implementation of recommendations for National Grid's Upstate electric operations, and Consolidated Edison Company of New York, Inc.'s (Con Edison) electric response program, as well as implementation of recommendations from the comprehensive management audit of Con Edison's electric, gas and steam operations.

> *Staff's report provided an overall status of recommendations and the audit implementation plan indicates progress under the Commission's vigorous management audit program of the state's largest electric and gas utilities. The auditing of a utility company's management and processes is an essential part of our regulatory tool kit in identifying improvements in utilities' planning processes and operational efficiencies.*
> - PSC Chairman Garry Brown

Staff reported to the Commission that several utilities have been audited to date: Con Edison's electric emergency outage response program audit in Case 06-M-1078 was completed in 2007, and Con Edison's electric, gas, and steam operations audit in Case 08-M-0152 was completed in 2009; National Grid's upstate electric operations audit in Case 08-E-0827 was completed in 2009; and, Central Hudson's electric and gas operations audit recommendations in Case 09-M-0764 will be presented to the Commission in the near future. Staff summarized the selection of an independent consultant for the management audit of NYSEG and RG&E in Case 10-M-0551 at the Commission's March 2011 meeting.

Staff further reported that the Commission's March 2010 Electric Rate Order (Case 09-E-0152) directed Con Edison to file an expanded audit progress report on the first anniversary of the approval of the company's implementation plan for the audit recommendations in Case 08-M-0152. Staff provided a status update on Con Edison's expanded audit progress report in which the Commission required the report to describe how the audit recommendations have been integrated into the company's efficiency and operations, how the implementation of certain recommendations have benefited customers, and more specifically an identification of cost reductions and reliability improvements. Staff also reported on Con Edison's progress in addressing the cultural, environmental, financial and regulatory barriers the company must overcome to fully realize the benefits of the management audit and ensure its long-term success.

Utilities were required to submit an implementation plan for the recommendations from the management audit within 45 days of the Commission release of the audit findings, and provide an update every four months thereafter until all recommendations are completed. The plans need to include the utility's rationale for the status, and an analysis of the costs and benefits of implementing the recommendation. Also, a roadmap of implementation steps must be provided, including any major milestones the utility must reach before the recommendation can be considered fully implemented.

Central Hudson Audit Report

The Public Service Commission accepted in May 2011 an independent audit report of Central Hudson Gas & Electric Corporation's (Central Hudson) management and operation of its electric and natural gas services focusing on the company's construction program planning processes and operational efficiency. The Commission required Central Hudson to file within 45 days an implementation plan to fully address the findings and recommendations of the management and operations audit report.

Management audits are but one tool in the regulator's tool box, but an important one in that it can produce a 'win-win' for the companies and customers. Utilities benefit by gaining better tools to manage their operations in these challenging financial times, and customers benefit by having lower rates and better service.
- PSC Chairman Garry Brown

The audit report contained 161 findings and conclusions resulting in 20 recommendations. Additionally, the audit consultant worked with the company in a collaborative effort to fully explore improvement opportunities in the areas of strategic planning and performance management; supply planning; system planning; project management; and work management.

The audit report provided a summary of findings and recommendations as to Central Hudson's: 1) corporate mission, objectives, goals and planning; 2) long-term load forecasting; 3) supply procurement; 4) long-term systems planning; 5) capital and operating and maintenance budgeting; 6) program and project planning and management; 7) workforce management; and 8) performance and results measurements.

The primary goal of the audit was to identify opportunities to improve Central Hudson's construction program planning processes and operation efficiency. The approach of the audit was to examine existing functions, processes, systems, organizations, and staffing, as well as past performance, for the purposes of defining prospective changes that will improve future performance.

The audit's forward-looking approach evaluated root causes of problems and pointed the way for Central Hudson to move to a more effective level of construction program planning and spending levels, consistent with its responsibility to provide safe, adequate and reliable service.

In general, the audit consultant found a company that was proud of its position as a cost-conscious provider. However, while the company does many things well, its failure to document or codify its practices left it vulnerable to "brain drain" as senior employees retire, or leave the company. Further, the failure of the company to adequately measure its progress made it more difficult to plan improvements and measure the success of any implemented improvement efforts.

The Commission, therefore, directed Central Hudson to develop and file an implementation plan that carefully considers the audit report's recommendations. Central Hudson was to consult with staff during the development of the plan (Case 09-M-0764).

Investigation of Tree Clearing

The Public Service Commission commenced an investigation in May of 2011 into acts of significant tree clearing without necessary Commission approvals apparently in preparation for the construction of a major utility gas transmission facility to be built by pipeline company Bluestone Gas Corporation of New York, Inc., a subsidiary of DTE Energy.

Based upon a preliminary review, it appeared that earlier in 2011, clearing of woodlands and wetlands began in the Town of Sandford, Broome County, including areas near a protected stream. Approximately 9.5 acres were cleared of trees apparently in preparation for a proposed gas pipeline without an Article VII Certificate having been first obtained; in fact, no application had yet been made.

> *This investigation arose out of an incident where our field staff discovered that land was being cleared for a new major pipeline in apparent violation of the state's pipeline siting law. The siting law is designed to ensure a full and complete public review of a proposed pipeline, including its location, is finished before actual construction begins.*
>
> \- PSC Chairman Garry Brown

The Commission was concerned about the clearing actions from three perspectives. First, the cleared area may not be the optimal route for the pipeline. Second, the right-of-way was cleared to the full width of the easement, where in other Article VII cases more narrow rights-of-way have been authorized to minimize visual impacts at key points. Third, if these are actions to establish a route on the ground before the permitting process has even begun, allowing them to stand would threaten the integrity of future pipeline permitting activities.

The proceeding investigated the circumstances that led to the tree clearing. The decision to move ahead with a proceeding was made quickly because a subsequent field visit revealed more extensive clearing than a first field visit, despite Bluestone's promise that no additional work would be done on the site.

The Commission instituted the proceeding to investigate all the facts and circumstances surrounding Bluestone's dealing with landowners, the negotiation of options and the staking and clearing of the contemplated right-of-way. An Administrative Law Judge was designated to oversee the proceeding and to establish process and deadlines as appropriate. On April 19, 2012, the Commission adopted the terms of an Offer of Settlement from Bluestone to resolve all issues raised in an investigation of acts of significant tree clearing (Case 11-G-0221).

II. CONSUMER ISSUES

Central Hudson Tax Benefit

In April 2011 the Public Service Commission voted to soften a potentially harsh financial blow to Central Hudson Gas & Electric Corporation customers by authorizing the utility to use a federal income tax benefit it received to offset certain expenses that normally would have been paid by customers. The tax benefit will go toward expenses the utility incurred as a result of the unprecedented back-to-back winter storms in 2010, as well as expenses from the sharply rising pool of bad customer debt facing the company.

> *Typically, a utility would request to recover the expenses related to storm restoration costs and bad debt from ratepayers through future rate increases. However, as a result of creative thinking by Central Hudson, the company will be able to use its federal income tax benefit to balance against expenses; as a result, customers will not see an increase in utility bills.*
> - PSC Chairman Garry Brown

According to the decision, Central Hudson was allowed to defer more than $18.8 million of storm restoration expense and more than $2.6 million of electric bad debt expense and offset these expenses against a newly created regulatory liability funded by a $33.1 million federal income tax benefit. The remaining funds will be used to offset other expenses in the future. Meanwhile, the company was denied authority to defer more than $2.5 million of incremental electric and gas property tax expense.

The back-to-back snowstorms in February 2010 were the most severe to affect the company's electrical system in its 110-year history. Restoring electric service required the effort of all of the company's employees as well as hundreds of contractors and mutual aid crews from as far away as Michigan, who worked together quickly, safely and without a single serious injury. All told, an estimated 210,000 customer interruptions occurred as a result of the 'Twin Peaks' storm, or about seven out of 10 customers (Case 10-M-0473).

Major Economic Development Effort

The Commission in September 2011 voted to allow New York State Electric & Gas Corporation (NYSEG) to spend $5 million to help offset the cost of improving transmission lines that serve Agro-Farma Inc.'s manufacturing plant in Chenango County. Agro-Farma, which is planning a major expansion, is one of New York's largest dairy product manufacturers and the maker of Chobani® Greek Yogurt.

Agro-Farma's plan calls for a capital investment of approximately $100 million over a 12 to 18 month period at its manufacturing facility in the Hamlet of South Edmeston. By securing the investment, there is an opportunity for an additional $50 million in new investment to the customer's headquarters, also located in the same geographic area.

Since 2007, Agro-Farma has invested nearly $100 million in its facilities and with these additional projects, an investment in New York of $250 million in total. Service to the expanded facility with the resultant increased load requires upgrades and/or expansions to NYSEG's existing electrical infrastructure costing up to $13 million.

> *One of the purposes of a utility's Commission-approved economic development fund is to provide economic assistance to preserve or create jobs and stimulate growth through financial assistance to a qualified customer with significant manufacturing and employment potential. The Commission strongly encourages stimulating economic development; without a vibrant economy and job-creating companies like Agro-Farma, our utility infrastructure will undoubtedly suffer.*
> - PSC Chairman Garry Brown

As a result of the planned expansion, electric load at the facility is expected to increase to approximately 12 MW and up to 20 MW over time. Construction of a new transmission line to serve the facility and surrounding area is of paramount importance to the company and its decision to continue plans to expand its existing facility. The funding being made available comes from NYSEG's accumulated economic development reserve, which was approximately $19 million (Case 11-E-0312).

Disaster Assistance for Farmers

The Public Service Commission and the New York State Energy Research and Development Authority (NYSERDA) in October 2011 announced a $5 million Agriculture Disaster Program to help farms replace systems and equipment damaged or lost due to Hurricane Irene and/or Tropical Storm Lee.

> *The destruction caused by Hurricane Irene and Tropical Storm Lee was unprecedented and the farming communities in the affected areas sustained significant damage. This authorization will provide a dual benefit of offering some relief to those communities in the face of tremendous need and avoiding lost opportunities for energy efficiency gains as those farms begin to repair and rebuild their operations.*
> - PSC Chairman Garry Brown

The program provides funding for energy-efficient repair and replacement of damaged electric and natural gas systems and equipment, such as milk processing, cooling, heating, and other farm systems. Emphasis will be placed on fast application response and face-to-face, on-line, telephone and other support needed by farmers.

The program was approved by the Commission and was administered through NYSERDA with assistance from the New York State Department of Agriculture & Markets. Assistance was made available for equipment or systems purchased on or after August 28, 2011 for sites affected by Hurricane Irene, or September 4, 2011 for sites affected by Tropical Storm Lee.

Program eligibility was limited to farms and on-farm producers located within counties identified by Executive Orders 17, 21 and/or 22. Eligibility was contingent upon demonstration that the loss was suffered as a result of Hurricane Irene and/or Tropical Storm Lee.

The applications for eligible farms or on-farm producers would be processed in the order in which they are received on a first-come, first served basis. Funding was provided at 100 percent of eligible costs minus other aid or insurance proceeds received with a maximum assistance amount of $100,000 per farm.

Farms seeking assistance were required to provide supporting documentation for the equipment or systems for which they are seeking funding. Detailed invoices or estimates for the equipment or systems were required for program application. Farms also had to demonstrate that they contribute to the System Benefits Charge (SBC) (Case 10-M-0457).

NYSEG Business Assistance Plan

The Public Service Commission in October 2011 announced approval of a petition submitted by New York State Electric & Gas Corporation (NYSEG) for three new economic development programs to provide up to $7 million in immediate assistance to qualifying customers in its service territory affected by Hurricane Irene and Tropical Storm Lee.

The specific programs approved by the Commission are as follows:

- The Emergency Community/Municipality Assistance Program would provide funding to offset costs incurred by communities/municipalities for repair and replacement of customer owned gas and electric infrastructure. Grant awards were limited to one per community, and not to exceed $100,000. +

- The Emergency Building Redevelopment/Revitalization Assistance Program would provide funding to offset costs incurred by commercial/industrial/larger farms agri-type businesses including food processing companies and large residential type establishment such as nursing homes, apartment complexes and multi-family units. This includes retail and mixed-use development facilities and educational/medical institutions. Grant awards are not to exceed $200,000.

- The Emergency Agriculture Assistance Program would provide funding to smaller farms and agri-type businesses to offset costs incurred for repair and replacement of customer-owned gas and electric infrastructure. Grant awards are not to exceed $50,000.

Record flooding caused severe damage to many communities. In many areas, the electric and gas infrastructure, along with buildings and equipment, were destroyed. These programs will provide timely and meaningful assistance to customers and communities located in designated disaster areas within NYSEG's service territory.
- PSC Chairman Garry Brown

These emergency programs were designed to provide customers and communities with quick and immediate access to all available resources for the repairs and rebuilding necessary after the devastating effect of Hurricane Irene and Tropical Storm Lee. With the approval of these programs, communities and commercial businesses were encouraged to formulate their plans for projects to recover from the extraordinary damages caused by these storms as soon as possible (Case 11-Z-0559).

Natural Gas Vehicles

The Public Service Commission in November 2011, in a move to spur the development of natural gas-powered vehicles in New York State and reduce the state's reliance on imported gasoline, approved a National Fuel Gas Distribution Corporation partnership for natural gas vehicles pilot program.

The Commission opined that development and growth of natural gas-fueled vehicles can play an important role to improve the state's energy profile, but the economics of these systems may be a barrier to acceptance. This unique pilot program in New York would help demonstrate the economic feasibility and evaluate the impact on the utility infrastructure of the natural gas-powered vehicles.

According to National Fuel, the development of natural gas vehicles (NGVs) would enhance the environment and national energy security, as well as benefit the commercial and industrial customers by reducing overall energy costs. Nationally, there are about 112,000 NGVs, mainly trucks. In the United States, about 30 different manufacturers produce 100 models of light, medium and heavy-duty natural gas vehicles and engines. Natural gas costs, on average, one-third less than conventional gasoline, and is produced domestically.

In its petition, National Fuel said that upfront costs to develop a customer-owned NGV project can be substantial. A customer's refueling station can cost from $100,000 to $1.5 million depending on the type of station (fast fill or time fill) and the number of vehicles in the fleet. The incremental cost of purchasing new NGVs vs. traditional gasoline or diesel vehicles can range from $7,000 to $22,000 per vehicle, depending on the type of vehicle. The program will provide a one-time credit for a refueling station and or the purchase of NGVs. The financial assistance would be recovered through the future sales paid by the customer.

National Fuel said the customer payback to switch to NGVs falls between four and eight years and said the development of the NGV program will make the project economics meet, or come closer to matching, customer expectations. The $3.5 million program was developed by National Fuel, with input provided by truck fleet customers, to encourage the installation of NGV and/or associated facilities. The program will run through March 31, 2015 (Case 11-G-0348).

Grid Ratepayers Share Refund

The Commission in November 2011 approved a Joint Proposal entered into between staff of the Department of Public Service and Brooklyn Union Gas Company d/b/a/ National Grid NY resolving the disposition of property tax refunds and credits obtained by the company related to the period from 1996-2010.

The Commission noted that the Joint Proposal represented a reasonable resolution to the sharing of the real property tax and special franchise tax refunds received by National Grid NY, and that customers clearly benefited from having the company aggressively challenge property tax assessments.

In total, the Joint Proposal addressed nearly $35.1 million of New York City tax refunds and credits. The company will be allowed to recover approximately $1.3 million related to costs to obtain the refunds and credits. The ratepayer and company property tax refund and credit sharing methodology was guided by the terms of various applicable rate plans resulting in the company retaining slightly less than $9.3 million of the net refunds, while customers would receive approximately $24.5 million.

The ratepayers' share of the bulk of their refund or $22.6 million, excluding the sharing related to credits, would be credited to the company's gas balancing account and would accrue interest as of the date of the refund. The deferred credit would be available to use in a subsequent proceeding to offset deferred debits the company may have on its books. The $1.9 million related to the tax offset credit would be shared as part of the mechanism in the company's current rate case — the amounts lower the tax expense during the subsequent years, resulting in 90 percent customer share in the lower amount (Cases 08-M-1445, 09-M-0818).

Temporary Operator Sought for Water Company

The Public Service Commission in January 2012 voted to initiate the process for appointing a temporary operator and instituting a penalty action against Painted Apron Water Company, Inc. (Painted Apron) for failing to ensure the provision of safe and adequate service for customers and abandoning the system without prior Commission approval. The company provided metered water service to 34 residential customers in the Town of Deerpark, Orange County.

> *The conditions at Painted Apron, relating to the abandonment of ownership, inadequate service, Orange County Health Department violations, ineffective management and financial concerns, support the Commission's determination that the company fails to provide safe, adequate and reliable service and lacks effective technical, financial and managerial capability.*
> - PSC Chairman Garry Brown

The Commission directed Painted Apron to show cause why the Commission should not (1) appoint a temporary operator to control and manage the company, (2) determine that the water company violated the Public Service Law (PSL) by failing to provide safe, adequate and reliable service and make necessary repairs, and (3) instituted a penalty action against Painted Apron and its owners, officers, directors, and managers and its agents for these violations. Failure to comply with the Commission's Show Cause Order would subject the company to a penalty (Case 11-W-0640).

NYSEG, RG&E Data Breach

The Public Service Commission in January 2012 announced it would conduct a full and complete investigation into the unauthorized access to customer data of New York State Electric & Gas (NYSEG) and Rochester Gas and Electric (RG&E), subsidiaries of Iberdrola USA.

The companies said that there is no evidence that any customer data has actually been misused, or that there was any malicious intent. NYSEG and RG&E have consulted with law enforcement and engaged computer forensics experts. The companies send out precautionary notifications to customers advising them of unauthorized access to customer data. The customer records contain Social Security numbers, dates of birth and, in some cases, financial institution account numbers. The companies also set up a help line to assist NYSEG and RG&E customers.

> *Public utilities are custodians of a great deal of personal customer information. As a result of this apparent data security breach, I have asked staff of the Department of Public Service to immediately initiate an investigation of the facts and circumstances surrounding this event.*
>
> \- PSC Chairman Garry Brown

The Department of Public Service investigation focused on the adequacy of the company's plan to identify, communicate with and assist any affected utility customers. In addition, the investigation sought a complete understanding of the root causes for this security breach, and the measures in place to protect against such a breach.

The Department coordinated its efforts with those taken by the Attorney General and the Department of State's Division of Consumer Protection. The proceeding was discussed at the Commission's July 12, 2012 session (Case 12-M-0282).

Submetering Changes Ahead

The Public Service Commission in January 2012 decided to solicit comments on revised regulations governing residential electric submetering, a system that allows a landlord, property management firm, condominium association, homeowners association, or other multi-tenant property owner to bill tenants for individual measured electric usage.

The Commission has long-favored metering of individual dwelling units to promote energy efficiency and equity. Tenants in master-metered buildings that are not submetered do not pay for electricity based on a measurement of actual use in their apartment; instead, average electric charges are included as a component of their rent. As a result, tenants using relatively small amounts of electricity could pay proportionately more for the electricity while also subsidizing those using relatively larger amounts of electricity. In addition, tenants who make adjustments in their living patterns to reduce consumption and save energy see no benefit from this in their monthly rent.

With metering of individual dwelling units, electricity consumers pay bills based on their actual consumption. This establishes an incentive for the efficient use of electricity, provides a tool for consumers to manage their energy usage and bills, and furthers the State's energy efficiency goals. Submetering regulations were last revised in 1988.

The proposed changes to the regulations for which the Commission is seeking comments include requiring that individual units in multi-unit new construction and substantially renovated premises be directly metered by the utility unless a petition demonstrates that master metering with submetering is necessary for on-site co-generation, demand-response programs or alternative, advanced energy efficiency initiatives.

The proposed regulations would also streamline the review of requests to submeter, so that in most situations, requests would be reviewed by staff and subsequently confirmed by an abbreviated Commission order. In addition, current requirements that assisted living and senior living facilities obtain a waiver of individual metering requirements would be eliminated, simplifying the development of housing in which a balance of assistance and independence is sought.

Furthermore, a case-by-case review of requests to submeter, accompanied by a comprehensive Commission order, will be conducted in situations in which electric heat is included in rent, or when a petitioner elects to submeter in lieu of direct metering in new construction. Electric heated buildings must show that a substantial majority of the tenants will benefit or be unharmed financially as a result of submetering. Landlords must also install programmable thermostats in such buildings (Case 11-M-0710).

III. Energy Efficiency Initiatives

Notable Changes in Energy Efficiency Efforts

The Public Service Commission in May 2011 approved a new targeted demand-side management program for Consolidated Edison Company of New York, Inc. to provide financial incentives to install energy efficiency measures that defer or avoid transmission and distribution (T&D) capital expenditures.

> *Our approval of changes to customer eligibility requirements will enable more NYSEG and RG&E commercial and industrial customers to participate in energy efficiency programs, which will directly help them reduce monthly utility bills. It will help expand the number of customers eligible for energy efficiency financial incentives.*
> - PSC Chairman Garry Brown

Meanwhile, in a separate action, New York State Electric & Gas Corporation (NYSEG) and Rochester Gas and Electric Corporation's (RG&E) were allowed to eliminate the 100kW demand threshold for customer eligibility for electric non-residential commercial and industrial custom rebate energy efficiency programs as a way to allow smaller businesses to participate.

The expanded energy efficiency program includes offering business customers upgrades and efficiency improvements to refrigeration, energy management systems, energy recovery systems, various industrial processes, day-lighting systems, and other measures.

As an indication of the value of eliminating barriers to energy efficiency, the Commission said it will allow other electric utilities the option to remove the 100kW customer eligibility threshold requirement where it has been required for other commercial and industrial electric utility energy efficiency programs (Cases 09-E-0115, 08-E-1129, 08-E1030).

Energy Efficiency Initiatives Streamlined

The Public Service Commission in June 2011 approved a major streamlining of its landmark Energy Efficiency Portfolio Standard (EEPS) program and added flexibility in the administration of approved energy efficiency programs by the utilities and the New York State Energy Research and Development Authority (NYSERDA).

> *Energy efficiency remains the most cost-effective, and most immediate, way to reduce the burden of rising energy and environmental costs on residential and business customers. Our continuing efforts to reduce electricity consumption by 15 percent of forecasted amounts by 2015 will enable customers to install energy-efficient equipment and appliances, help create clean energy jobs, and help reduce monthly utility bills.*
> - PSC Chairman Garry Brown

The Commission's modifications to improve the energy efficiency program includes organizing approved EEPS programs into specific classification groups of similar programs; providing greater flexibility to program administrators; streamlining procedures for program administrators to pre-screen energy efficiency measures for cost-effectiveness; making it easier for program administrators to moderate the rebate levels in order to stretch out available dollars to more customers; and allowing adjustments to customer rebate or incentive levels for certain residential electric and gas programs that are now subject to uniform statewide rebate levels.

Since June 2008, the Commission has provided funding for the electric portion of the EEPS Program totaling $317 million annually through 2011. In May 2009, the Commission established targets for gas efficiency programs and subsequently authorized expenditures totaling $138 million annually. There are more than 100 energy efficiency programs for residential, commercial, and industrial customers now available (Case 07-M-0548).

Central Hudson's Efficiency Program Boost

The Public Service Commission in August 2011 authorized Central Hudson Gas & Electric Corporation (Central Hudson) to spend up to $3.5 million this year to assist small and mid-sized business customers that want to make their businesses more energy efficient.

In its order, the Commission authorized Central Hudson to spend $2.5 million for customer incentives in the electric small business program and up to $1 million in the electric mid-size business program.

> *This action helps expand the use of certain environmentally advantageous technologies, and it will better help New Yorkers meet their long-term energy needs.*
> - PSC Chairman Garry Brown

The small business program targets customers with average electricity demand up to 100 kW, and the mid-size business program targets customers with demand from 100 to 350 kW. Both programs promote cost-effective lighting improvements by offering participants technical and financial assistance as well as direct installation of lighting equipment to make their facilities more energy efficient and reduce their electricity bills.

There remains strong demand for the programs' services. Central Hudson currently has about 650 commercial electric customers that have received energy audits but have not yet installed energy efficiency measures under the program. Central Hudson reported that the average reduction in annual electric usage in its territory has decreased by about 23 percent for a participant in the small business program and about 11 percent for a participant in the mid-sized business program (Case 07-M-0548).

National Grid Goes Greener

The Public Service Commission in September 2011 directed National Grid to continue offering commercial customers who install environmentally friendly on-site generation technologies, such as small wind turbines and photovoltaic panels, lower rates for the delivery of electricity. In addition, Grid was directed to make combined heat and power technologies that can meet efficiency standards eligible for rate exemptions.

Interest in clean, customer-sited generation continues to grow. The benefits accrue both to the owners of the onsite resources, through cost savings from avoided purchases of grid-supplied power, improved reliability, reduced thermal energy consumption, and lower overall energy costs, and to the electric system as a whole, through reduced demands for power, avoided investments in generation and delivery capacity, improved operational efficiencies, increased system reliability, and lower total system energy consumption, costs, and emissions.

> *These very successful programs encourage commercial customers to install on-site generation technologies. The programs have received overwhelming positive responses from the local business community. A failure to approve the additional funding would have led to permanent lost energy savings, job losses and harm to the achievement of our energy efficiency goals.*
> - PSC Chairman Garry Brown

Combined heat and power, or CHP, is an efficient, clean, and reliable approach to generating power and thermal energy from a single fuel source. By installing a CHP system designed to meet the thermal and electrical base loads of a facility, CHP can greatly increase the facility's operational efficiency and decrease energy costs.

Customers with on-site generation typically require a different set of services than customers who receive all of their electricity from the utility, including continuing electricity service for the portion of usage that is not provided by the on-site generator, as well as service for periods of scheduled or unscheduled outages.

In its decision, the Commission extended Grid’s exemption for environmentally advantageous technologies to May 31, 2015 and expanded that exemption to include efficient combined heat and power projects of 1 MW or less.

Under the rate exemptions now extended to owners of efficient CHP, customers with on-site generation can select either the generally applicable rate charged for delivery, or a rate, called a standby rate, generally imposed on customers that generate electricity for their own use or sale to others, whichever enables them to realize the most savings. Determining the exact amount of savings a customer will receive is dependent upon the customer’s electricity usage and the technology employed (Case 11-E-0279).

Energy Efficiency Program Reauthorized

The Public Service Commission in October 2011, in a major step to ensure New York continues to provide energy efficiency funding incentives to residential, commercial and industrial customers, voted to reauthorize the state’s Energy Efficiency Portfolio Standard (EEPS) initiative. The EEPS program is designed to reduce consumption of electricity and natural gas, while spurring creation of the infrastructure to support the creation of energy efficiency-related jobs.

The Commission's EEPS initiative is a far-reaching, groundbreaking energy efficiency program that has reversed the pattern of ever-increasing energy use in New York. The Commission's long-term goal is to reduce electric usage by 15 percent of projected levels by 2015, with similar reductions in natural gas usage, making EEPS one of the most aggressive efficiency initiatives in the nation.

The state's energy efficiency program remains as critically important for the State's energy future as it was when created in 2007. Energy efficiency is the most cost-effective, and immediate, way to reduce the burden of rising energy costs on residential and business customers. The steps we have taken helped ensure that energy efficiency remains an integral part of New York's clean energy economy.
- PSC Chairman Garry Brown

With the Commission's decision, over 100 electric and gas programs providing benefits to residential, commercial, industrial and agricultural customers are reauthorized for the four-year period beginning January 1, 2012 and ending December 31, 2015.

The total annual targets for electric programs equal 1.3 million MWh for 2012, enough to meet the electricity needs of approximately 200,000 homes. The total 2012 electric program budget is $368 million. The EEPS electric programs are on a trajectory to achieve the Commission's goal, established in 2008, of reducing electricity use by 11.2 million MWh by the end of 2015, enough to meet the electricity needs of approximately 1.73 million homes.

Meanwhile, the total 2012 targets for gas programs equal 3.4 million dekatherms, enough to meet the natural gas usage of approximately 411,000 homes each year. The total 2012 budget for gas programs is $154.4 million.

As part of its decision to approve funding for the EEPS programs, the Commission decided to increase funding for low-income natural gas programs administered by NYSERDA by $18.7 million, meaning that some $75 million annually will now be directed toward low-income electric and natural gas programs statewide.

As part of the change in the EEPS initiative, three energy efficiency programs administered by National Fuel Gas of Buffalo, including its conservation incentive program, will be incorporated into EEPS. In addition, National Fuel's spending on outreach and education will be reduced from 15 percent to 9 percent of total program costs, making it comparable to other EEPS programs. The $600,000 difference would be allocated between the low-income program and the residential rebate program, with more funds going toward low-income families.

In addition to reauthorizing programs, the Commission began a process of considering whether the incentives utilities' receive to participate in the EEPS initiative need to be revised (Case 07-M-0548).

NYSERDA 5-Year Plan

In October 2011, the Public Service Commission approved a new, five-year program valued at $469 million for a suite of energy-related technology and market development (T&MD) programs to be administered by the New York State Energy Research and Development Authority (NYSERDA).

With the Commission's action, NYSERDA's operating plan was approved for a five-year term with an annual average budget of $93.8 million. The extension approved , known as T&MD, provides a renewed vision of the program as a means for testing, developing and introducing new technologies, strategies and practices that build the statewide market infrastructure to reliably deliver clean energy to New York residents.

> *Since inception, NYSERDA's programs have produced significant reductions in peak electric demand, helped numerous advanced technologies reach commercial availability or market adoption, supported the start-up and growth of clean tech companies, expanded the availability of energy efficient products, and supported training of essential clean energy practitioners and educators.*
> - PSC Chairman Garry Brown

The System Benefits Charge (SBC), which funds T&MD, was initiated in 1998 as a means of ensuring continued financial support for programs providing important public benefits that were historically funded through utility rates and could not be expected to be offered by competitive markets. In 2001, and again in 2006, the SBC was extended for an additional five years. The last of those extensions, referred to as SBC III, expires at the end of this year.

The new technology and market development portfolio encompasses programs designed to accelerate energy innovation through support for scientific research and market analysis, investment in technology development and demonstration, promotion of a clean energy economy through business and market development, acceleration of adoption of clean energy technologies and practices, and the incorporation of more rigorous energy-use standards in codes and industry best practices.

NYSERDA's plan identifies eight separate initiatives grouped within three categories: power supply and delivery; building systems; and clean energy infrastructure. Highest priority was given to initiatives having the potential to reduce usage and demand, increase reliability and safety, moderate wholesale prices, mitigate delivery cost increases, or diversify energy resources (Case 10-M-0457).

IV. JUST AND REASONABLE RATES

RG&E Offers Options

The Public Service Commission in May 2011 authorized Rochester Gas and Electric Corporation to implement its plan to expand mandatory hourly pricing (MHP) to customers with demand greater than 300 kW. Previously, the utility was only required to offer MHP to customers with a demand greater than 1 MW.

RG&E's previous MHP program was offered to customers with billing demands of 1 MW or more during any two of the previous 12 months. Currently, there are only 140 customers taking service under the MHP program, with 20 of those customers purchasing their supply from RG&E while the rest purchase their electric supply from retail access providers.

With the lowering the MHP threshold, it is expected that an additional 585 customers — four times the current number — will to be added to the MHP program in RG&E service territory. The expansion of hourly pricing benefits the electrical system through potential reductions to peak period prices, enhanced peak period reliability, and wholesale market power mitigation. The Commission has also found that hourly pricing yield more equitable customer bills than does the existing less exact, average energy rate.

RG&E would phase in the new program in two steps; customers with demands of 500 kW or more for two of the prior twelve months will begin participation in the MHP program with their first full billing period falling on or after September 22, 2011. This first expansion would affect approximately 220 customers. Then, on September 22, 2012, all the remaining eligible customers would be required to take service under the MHP program. This second expansion would affect approximately 365 customers (Case 9-E-0717).

New Rates for O&R

The Commission in June 2011 authorized Orange & Rockland to increase electric base revenues by $26.6 million— 12.1 percent on total system delivery revenues and 4 percent on a total electric bill basis. However, due to the elimination of temporary surcharges, the net delivery bill increase for residential customers will be 6.7 percent and the net total bill increase will be 2.7 percent. The company originally sought to increase electric delivery revenues by $61.7 million.

The base delivery rate change approved included an increase in the monthly customer charge for residential customers to $15.60. The current effective monthly customer charge only covers approximately half of the cost to provide electric service to residential customers. Consequently, there is a cost basis to increase the charge to better reflect the cost of service. As a result of the Commission’s decision, a typical residential customer using 700 kWh in a summer month would see a bill increase of $3.00, or by about 2.2 percent.

The Commission established a return on equity of 9.2 percent instead of the 11 percent requested. The lower return on equity accounts for a large portion of the reduction in the company's requested rate allowance. Other factors contributing to the Commission's reduction in O&R's requested revenue requirement include an adjustment to the company's net plant additions to recognize a past pattern of delayed capital projects, and a reduction in transmission and distribution operation and maintenance expense.

In response to the economic slowdown, the Commission in December 2009 required the implementation of austerity measures in discretionary spending by utilities that would benefit ratepayers immediately and not impact the safety and reliability of the system.

While the Commission acknowledged O&R's commendable cost-cutting efforts, the company's efforts failed to provide the immediate benefit to ratepayers as contemplated by the austerity initiative. Due to the continued uncertainty in the economy, the Commission would require O&R to provide an additional $478,000 in austerity savings in order to achieve the company's commitment of $825,000 in austerity savings.

The decision continues system reliability and customer service performance targets designed to ensure that customers receive a high level of service and that outages are minimized to the greatest extent possible. If targets are not met, the decision provides that up to approximately $3.l million of company electric revenues could be forgone annually.

The decision also increases the low-income program discount of $5 for non-heating customers to $7 and from $10 for heating customers to $15. In addition, program participants would now be eligible for a one-time waiver of reconnection fees, which should assist customers in returning to electric service.

To help attract and retain businesses within O&R's service territory, the company will revamp its Economic Development Rate by increasing the delivery charge discount from 10 percent to 20 percent, reducing the required load expansion from 250 kilowatts to 100 kilowatts, and extend the program through December 31, 2016.

With respect O&R's request for recovery of costs associated with expansion of the company's smart grid pilot program, O&R is required to file a report with the Commission within 90 days of completion of the pilot program (Case 10-E-0362).

National Grid's Options Expanded

In June 2011, the Public Service Commission authorized National Grid to implement a plan to expand mandatory hourly pricing (MHP) to customers with demand greater than 250 kW. Previously, the utility was only required to offer MHP to customers with a demand greater than 500 kW.

National Grid was the first New York utility to implement MHP for its commercial and industrial customers. In 1999, the company's largest customers with demand of 2 MW and above were put onto MHP. In 2006, the company expanded MHP to large general service customers with billing demands at or above 500 kW. There are currently 891 customers in the National Grid MHP class; this expansion would more than double the number of customers in the class.

> *Electricity is a commodity, and like any commodity prices rise and fall with changes in demand. Expanding mandatory hourly pricing will create more of an incentive for commercial and industrial customers to better control electricity usage, and thereby control utility expenses; such customers also benefit because they will see a greater opportunity to reduce overall operating costs.*
> - PSC Chairman Garry Brown

The expansion of hourly pricing benefits the electrical system through potential reductions to peak period prices, enhanced peak period reliability, and wholesale market power mitigation. The Commission also found that hourly pricing yields more equitable customer bills than does the existing, less exact, average energy rate.

The implementation plan calls for National Grid to identify qualified customers; select and obtain Commission approval of appropriate metering equipment; order and install metering equipment for qualified customers; provide customer outreach and education about the MHP tariff and tools for customers to understand their load; and finally to commence hourly commodity billing. Metering equipment should be installed by June 1, 2012. It is expected that hourly commodity billing will begin in June of 2013 (Case 10-E-0050).

New Rates for Green Island

The Public Service Commission approved in November 2011 authorizing a $300,000 electric rate increase for Green Island Power Authority (GIPA) customers effective December 1, 2011.

GIPA said the rate increase was necessary due to increases in costs, electrical infrastructure improvements completed since 2007, and anticipated infrastructure additions. GIPA further states it has not increased rates since 1988, and it cannot meet operational demands with rates more than 20 years old.

As a result of the Commission's decision, a typical residential customer using 500 kilowatt-hours per month will see an increase from $48.30 to approximately $53.78 or 11.3 percent. Meanwhile, the typical commercial customers using 3,500 kilowatt-hours per month will see an increase from $314.85 to approximately $348.86 or 10.8 percent.

Green Island operates a municipal electric utility serving approximately 1,651 residential, commercial, and industrial customers in the Village of Green Island, in Albany County. The Authority owns, operates and maintains a hydroelectric generating facility used to generate electricity sold to National Grid.

Green Island is a member of the New York Municipal Power Agency and came under the Commission's jurisdiction on May 1, 1998 after it started to receive supplemental power from sources other than the New York Power Authority. This was GIPA's first electric rate increase request since coming under the Commission's jurisdiction. Consistent with normal ratemaking procedures, staff used a cost-based approach to determine Green Island's revenue requirement (Case 11-E-0387).

Lower Rates for National Grid

In December 2011, the Public Service Commission approved lowering National Grid's residential electricity delivery bills by an average of 11 percent and up to 44 percent for some commercial and industrial customers. On a total bill basis, the decline will average 6 percent for residential customers, and up to 23 percent for some commercial and industrial customers.

After factoring in the recovery of certain deferred expenses, National Grid's 1.6 million upstate ratepayers, including 1.5 million residential customers, will see a total delivery rate decrease of approximately $429 million in 2012. Specific bill impacts are as follows:

> *The Commission and its staff worked diligently to provide this historic relief to National Grid ratepayers. Not only did we freeze electric delivery rates for average residential customers in 2011, residential customers will now see a sharp decrease in delivery rates next year. Furthermore, commercial and industrial customers will see unprecedented decreases in delivery rates, a welcome change that will have a positive economic impact across National Grid's service territory.*
> - PSC Chairman Garry Brown

- A residential upstate National Grid customer using 500 kWh of electricity per month pays approximately $53 a month for delivery of electric service, or $80 including supply service. With the Commission's decision, such customers will see the delivery portion of their electric bill fall to about $46, or around $74 including supply service.

- A small non-demand commercial upstate National Grid customer using 500 kWh of electricity per month pays approximately $65 a month for delivery of electric service, or about $93 including supply service. With the Commission's decision, such customers will see the delivery portion of their electric bill fall to about $58, or around $86 including supply service.

- A small demand-metered commercial upstate National Grid customer using 60 kW per month pays approximately $1,180 a month for delivery of electric service, or about $2,110 including supply service. With the Commission decision, such customers will see the delivery portion of their electric bill fall by approximately $270, or around $250 including supply service.

- A mid-sized industrial upstate National Grid customer using 750 kW per month pays approximately $20,000 a month for delivery of electric service, or about $37,380 including supply service. With the

Commission decision, such customers will see the delivery portion of their electric bill fall by approximately $8,560, or around $8,310 including supply service.

- A large industrial upstate National Grid customer using 4,000 kW per month pays approximately $54,400 a month for delivery of electric service, or about $139,400 including supply service. With the Commission decision, such customers will see the delivery portion of their electric bill fall by approximately $22,700, or around $19,300 including supply service.

The primary reason for the sharp decrease in rates is because the fixed Competitive Transition Charge established as a part of Niagara Mohawk's 1998 rate plan and extended in 2002 as part of the merger of National Grid and Niagara Mohawk was eliminated.

The charge, according to National Grid, cost ratepayers $573 million in 2011, and was designed for the recovery of Niagara Mohawk's buy-out costs to end certain above-market priced federal- and state-mandated power supply contracts and the loss on the sale of Niagara Mohawk's generation assets.

Although the charge was supposed to expire at the end of 2011, National Grid had initially proposed in January 2010 to extend its collection beyond its expiration to maintain level bills. Through the rate filing examination process, the Commission determined the company's cost of service was lower and level rates could be provided in 2011 without the need to extend the collection of the charge.

In addition to ending the charge, the Commission would allow National Grid to recover $236 million in outstanding deferral account balances, including up to $35 million related to costs associated with Hurricane Irene, over a 15-month period beginning January 1, 2012 and continuing through March 31, 2013, with the exception of a longer period for street lighting customers (Case 10-E-0050).

V. RENEWABLE ENERGY

Stony Creek Wind Farm

In December 2011, the Public Service Commission granted a Certificate of Public Convenience and Necessity, subject to conditions, for Stony Creek Energy LLC's (Stony Creek) wind energy project to be located in the Town of Orangeville, Wyoming County, consisting of up to 59 wind turbine generators, access roads, underground electrical lines, a two-acre interconnection substation, a construction staging area, and a centrally located operation and maintenance facility. The wind turbines will range up to 430 feet in total height.

As part of the decision, the Commission authorized Stony Creek to start development of a substation site for interconnection with New York State Electric & Gas Corporation's (NYSEG) facilities. Also, Stony Creek was approved for lightened regulation as an electric corporation for wholesale market operations, and its debt financing plans were approved.

For reasons of public safety and convenience, the installation of the proposed new General Electric model 1.6-100 wind turbines may only commence upon Stony Creek providing a third-party certification, which provides an assurance that the turbine design and manufacturing process conform to appropriate codes and industry standards (i.e., standards of the International Electrotechnical Commission) and that expected performance standards should be achieved.

Stony Creek is authorized to begin substation site development, and after providing more plan details, start construction of the substation and interconnection to a 230 kV transmission line owned by NYSEG. Construction of the substation is on the critical path to facility operation, in part due to the nature of the construction and in part because Stony Creek must coordinate with NYSEG in scheduling a line outage to complete the tie-in work and testing.

Stony Creek has provided site grading and erosion control plans, and preliminary plans and equipment listings for substation and switchyard facilities. The Commission will require plans be revised to further address the installation of fencing, gates and permanent exterior lighting for security purposes at the substation, switchyard and operation and maintenance building.

Environmental review of Stony Creek's proposed project was conducted pursuant to the State Environmental Quality Review Act (SEQRA), Article 8 of the Environmental Conservation Law (ECL) by the Town of Orangeville, which was designated as the 'lead agency' under the SEQRA environmental review process (Case 11-E-0351).

Renewable Energy Options Expanded

The Public Service Commission in September 2011 authorized a series of changes in the state's renewable energy program to provide even more opportunity for residential and commercial customers to participate in and receive funding to install renewable energy devices.

As part of the Commission's actions to ensure that the success of the state's renewable energy program continues unabated, the New York State Energy Research and Development Authority (NYSERDA) was authorized to distribute to eligible customers $35.5 million in Renewable Portfolio Standard (RPS) customer-sited tier program funds for additional projects for 2011.

> *Encouraging homeowners and business owners to install renewable energy technology will directly help them lower their energy bills. In addition to directly benefiting customers, these changes will help reduce the state's dependence on fossil fuels, enabling all of us to gain greater control of our energy future.*
> - PSC Chairman Garry Brown

To encourage greater development of solar power, the Commission authorized NYSERDA to set aside $900,000 to fund a solar thermal awareness and outreach campaign through 2013. The Commission also said it would allow NYSERDA to exceed the $2 million cumulative monthly cap on incentive payments in the solar photovoltaic category by $8.9 million.

While helping to ensure the success of solar power resource development, the Commission also expanded the size of wind turbines eligible for funding that could be installed by residential and commercial customers. Such customers can now install wind turbines up to 2 MW in size, an increase of the 600 kW-sized turbines that had previously been allowed, while still being provided with a maximum incentive of $400,000 per installation/customer location.

Increasing the size of equipment eligible for incentives in the customer-sited wind program will likely result in an increase in program participation, without increasing the current incentive cap, which could result in higher amounts of renewable energy generated at no additional cost to ratepayers (Case 03-E-0188).

Wind Farm Retools

In June 2011, the Public Service Commission voted to approve a modification to the plans of the Marble River Wind Farm in the Towns of Clinton and Ellenburg, Clinton County. The decision will allow the wind farm owners to install the largest wind turbines in New York State.

The 3 megawatt (MW) turbines to be installed at Marble River are 492 feet tall, significantly larger than previous models proposed for the site, and are designed to achieve greater efficiencies of production by utilizing new gearbox and control designs, and by increased height and blade swept area to maximize generation potential at low and medium wind speed sites.

Earlier in 2011, wind farm developer Marble River LLC requested modification of the plan previously approved by the Commission. The company said its construction schedule must proceed by early July, 2011 to accommodate planned outage on the New York Power Authority's 230 kV interconnection line later this year, and to maintain the viability of financing the construction of this 216 MW wind energy plant. The Marble River project is owned by Horizon Wind Energy and EDP Renewables, a subsidiary of Energias de Portugal.

Based on the Commission's decision, Marble River will site and operate 72 Vestas V112-3 MW turbines with a total maximum generating capacity of up to 216 MW. Marble River was previously authorized to install up to 109 2.1 MW wind turbines, with a rated project output of 229 MW. The turbines are the largest ever approved for use in New York State.

In addition to installing fewer, larger wind turbines, the project as now configured will include significant reductions in the length and area of access roads, a reduction in the length of underground electrical collection lines, and elimination of overhead collection lines, with overall disturbed areas and wetlands impacts significantly reduced.

In New York, Horizon is the co-owner of the Maple Ridge Wind Farm, a 322 MW facility located in Lewis County, and the owner of the Madison Wind Farm, an 11 MW facility in Madison County. Horizon is developing a number of other sites in New York that may be suitable for wind generation facilities. Clinton County will host the most wind generating installed capacity in New York with more than 500 MW installed (Case 07-E-1343).

Net Metering Simplified

The Public Service Commission in May 2011 voted to require that major electric utilities in New York allow net metering customers the option to select when they can cash-out their net metering credits. By providing greater options as to timing, customers will be able to maximize the value of their credits.

Residential solar net metered customers are paid by the utility for any electricity produced in excess of what the customer actually uses on an annual basis. If the annual anniversary date for the customer occurs after the high electricity producing summer period, any excess production payments would typically be cashed out by the utility at a much lower rate.

To avoid this disadvantage, the customer is now permitted to opt to individually select an anniversary date for the cash-out of excess net metering credits. This option was also extended to the farm waste, residential wind, and farm wind customers that are also eligible to cash out excess credits, because they could confront disadvantages similar to those that face residential solar customers.

Under earlier rules, utilities with net meter eligible customers credited an excess of generation production over usage during a billing period to the next bill. Utilities, however, were interpreting differently the statutory requirements for calculating the billing credits. The Commission's decision establishes the rules the utilities must follow when making the calculations, and puts the calculation squarely in favor of the customer, by directing the utilities to reflect all kWh rate elements, including block rates where applicable, when calculating net metering credits (Case 10-E-0645).

VI. ENSURING SAFE AND RELIABLE SERVICE

Adequate Summer Electricity Supply

The Public Service Commission in May of 2011 received an update from the staff of the Department of Public Service outlining electric utilities' summer preparedness in terms of addressing transmission and distribution reliability needs, and price volatility for residential and small commercial and industrial customers who take electric supply service from the utilities.

Staff reported to the Commission that a review of the supply of electric generation capacity and transmission system condition in the state indicates that the system is ready to provide adequate and reliable service for this summer. The New York Independent System Operator (NYISO) reports that there are adequate generation and demand side resources to provide necessary supplies of energy and reserves to meet the summer load projections. All transmission owners also report that they are able to meet peak projected loads in all areas with all circuits in service.

Staff noted that given the dense population and unique characteristics of Consolidated Edison of New York, Inc's (Con Edison) service territory, the company continually has the highest loads in its area during the summer months. To help redress this situation, the company continues to offer its load relief programs—Direct Load Control (DLC) Program and the Rider U-Direct Load Relief Program—available for deployment during high load system conditions.

> *Addressing the state's electric system's reliability and supply needs remains a high priority concern. Our assessment of the state's utilities' preparedness to meet the upcoming summer loads indicates that the system is ready and able to provide adequate and reliable service this summer.*
> - PSC Chairman Garry Brown

Additionally, Con Edison has two demand response programs to reduce system peak load—Rider S-Commercial System Relief Program and the Rider T-Critical Peak Rebate Program. Under both programs, large commercial or industrial program participants receive financial incentives to reduce load during events which are called by the company when the day-ahead forecasted load level is at least 96 percent of the forecasted summer system-wide peak.

Overall, the number of localized summer preparedness projects has stayed relatively the same from last year's levels. The utilities indicated to staff that overall loadings across the state have not significantly increased in recent years. The recent completion of a number of major capital projects, with increased capacities and new circuits added throughout the service territories, has reduced the need for smaller summer preparedness projects, such as load transfers and added capacitors.

Staff also reported to the Commission that the utilities have taken steps to reduce price volatility of their estimated May 2011 through April 2012 commodity needs through fixed and indexed hedges. Generally, residential and small commercial and industrial customers or mass market customers electing to take supply service from utilities instead of alternative providers are more risk-adverse. Mass market customers can benefit from the restraints utility hedges provides on electric commodity price volatility (Case 11-E-0162).

Vegetation Management Rules Improved

In May 2011, the Public Service Commission adopted eight recommendations to improve and clarify utility practices regarding high voltage transmission right-of-way vegetation management practices.

The Commission's earlier policy regarding right-of-way (ROW) management established requirements for utilities' ROW maintenance programs and ensured adequate record keeping and reporting by the utilities. In addition, the federal Energy Policy Act called for the development and implementation of additional mandatory and enforceable reliability standards for utility ROW maintenance.

The Commission noted that reliability problems commonly manifest when contact occurs between a tree and a transmission line during, for example, a storm that causes a fault in the transmission circuit that may cause widespread electric system outages. Because of this, effective management of transmission rights-of-way is an essential component of system reliability.

However, in recent months, members of the public and elected officials have expressed concern with respect to the ROW vegetation management practices used by utilities to implement the above described regulatory scheme along their transmission rights-of-way. These concerns have largely focused on the trimming and removal of trees and other vegetation by utilities in their transmission rights-of-way. Those objecting to the utilities' practices cite the unwanted aesthetic impacts associated with the utilities' ROW work, as well as noise, erosion and decreased property value as potential results.

> *Maintaining the highest degree of electric system reliability for the benefit of New York's customers is among the most important of our responsibilities. However, there is a real need to ensure the public is fully informed regarding changes to be made to vegetation surrounding high-voltage power lines in the community. These comprehensive new rules will help significantly improve the notification process and will help avoid problems that have occurred in the past.*
>
> \- PSC Chairman Garry Brown

As part of the public review process, more than 200 written comments were received from interested parties and six public statement hearings were conducted throughout the state at which people who would rather comment orally were able to do so. Staff reviewed the written comments and those made at the public statement hearings, and developed for the Commission's consideration eight recommendations to improve ROW management practices in the State. Staff also sought public comment on the first seven of its recommendations.

Staff indicated that its recommendations appropriately reflect the concerns that have been expressed, are cost-effective and sensitive to environmental, aesthetic and community values, and protect the continued provision of safe and reliable electric service and recommends their adoption (Case 10-E-0155).

Utility Pole Issues

In May 2011, the Public Service Commission voted to implement a new program designed to establish better coordination between utilities transferring facilities and equipment to new poles.

Installing new poles is essential to maintaining safe, adequate, and reliable electric and telephone service, however, the removal of older, often structurally unsound poles has not kept pace with new installations. This results in a partial transfer of facilities by a utility of all or part of its equipment to the new pole while facilities remain on the old pole.

> *Furthermore, while utility pole owners and attaching entities within our jurisdiction are required to participate in the program, non-regulated attaching entities, and municipal and other governmental entities are strongly encouraged to participate.*
> - PSC Chairman Garry Brown

Where transfers are not completed in a reasonable period of time, or never completed, a double pole situation is created which results in unnecessary costs to utilities and ratepayers. In addition, the failure to promptly remove the old pole, which may be in damaged or unsafe condition, may jeopardize public safety. Approximately 20 other states participate in programs to address incomplete facility transfers.

Various state agencies, municipalities, and members of the public have submitted numerous complaints concerning incomplete facility transfers over the years. Routine Commission reviews revealed that as much as five percent of observed outside plant is in an incomplete transfer condition or that the old pole has been abandoned. Coordination among utilities and other parties regarding the transfer of facilities to new poles appears inconsistent and to result from the lack of a means to effectively communicate.

Electric and telephone pole owners are responsible for setting and removing poles and bear primary responsibility for informing other attaching entities, such as facility based competitive local exchange carriers and cable television companies of the need to transfer facilities. Municipalities and state and local departments of transportation are also involved in these transfers and need to coordinate the construction of roads, signage, street lights and traffic signals which could affect poles placement. In most instances, telecommunications facilities are transferred after electric and in accordance with joint pole agreements the telecommunications carriers are usually responsible for pole removal.

The new initiative developed collaboratively by the electric and telephone pole owners, third-party facility attachers (including cable television companies), staff of the Department of Public Service and other government entities, and known as the Standardized Facility and Equipment Transfer (SAFET) program, will provide a single database of pole status information as well as, enhanced coordination, communication, monitoring and notification concerning facility transfers between utility poles owned by electric and telephone companies.

The minimum software services required by the program will be available to program participants at no cost for six-years; cost of additional services would be borne by the requesting party. The effectiveness of the program, including success in achieving targeted completion timelines, will be evaluated in two years.

In order to more fully understand and address this matter, each pole owner is to submit a report to staff indicating how each pole owner proposes to reduce the number of double poles currently in existence. The report should also describe impediments to reducing the number of existing double poles, as well as setting forth possible solutions (Case 08-M-0593).

Tougher Reporting Requirements

In June 2011, the Public Service Commission strengthened its regulatory oversight of Entergy Corporation by requiring that the company notify the Commission if any significant changes are proposed for the company and its operations financially. Through subsidiaries, Entergy owns and operates the James A. FitzPatrick Nuclear Station in Oswego County and the two nuclear power plants at the Indian Point Energy Center in Westchester County.

The Commission commenced this proceeding in 2010 after Entergy indicated that it theoretically had the ability to change its corporate structure or financial structure in a manner that did not require Commission review. Faced with that possibility, the Commission believed it would be possible that these alternative arrangements could have a direct impact on the ability of the New York nuclear subsidiaries operating and owning Indian Point and Fitzpatrick to meet their capital needs for those facilities.

To address this potential problem, in this proceeding, Entergy was ordered to show cause why it should not be required, in the future, to provide notice to the Commission of transactions which would be could be detrimental to the financial strength of the New York nuclear subsidiaries.

Under the decision approved, the Commission would receive notice of eight different events that Entergy is required to report to the United States Securities and Exchange Commission. These events include entry into a material agreement, or a material amendment to any such agreement, entry into bankruptcy or receivership, completion of an acquisition or disposition of a significant amount of assets, creation of a material financial obligation, triggering events that accelerate or increase a direct financial obligation or an obligation under an off-balance sheet arrangement, a material impairment of assets and amendments to corporate articles of incorporation or by laws.

The company would also be required provide notice to the Commission of any registered public debt offerings by Entergy or any of its subsidiaries that are direct or indirect owners of the New York nuclear facilities; any plant acquisitions or dispositions by any direct or indirect owners of the New York facilities; any pledge or other grant of a security interest in the assets or properties by the New York subsidiaries; and any contractual limitation on the ability of the New York subsidiaries to borrow money. These supplemental notice requirements should provide notice of any alternative transactions (reverse spin-off), the possibility of which led to the initiation of the Commission's proceeding (Case 10-E-0420).

Reliability and Customer Service

In June 2011, the Public Service Commission received reports from staff of the Department of Public Service (staff) assessing electric service reliability and customer service quality performance by electric and natural gas utilities in New York State. Overall, staff was pleased with the steady reliability of electric service and satisfactory customer service performance across the New York State.

Statewide interruption frequency for 2010, excluding major storms, had been nearly identical for the past three years, and better than the five-year average. Central Hudson Gas and Electric Corporation and National Grid Upstate improved when compared with 2009. While the performances of the remaining four — Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., New York State Electric and Gas Corporation and Rochester Gas and Electric Corporation — of the major electric companies were not as good as 2009 levels, they still performed satisfactorily and met the criteria in the performance mechanisms to which they were subject. For these companies, calendar year 2009 was also one of their best performing years in recent history.

> *Reliability performance mechanisms and customer service quality incentive mechanisms have been in effect for many of the utilities for years. These performance measurement mechanisms link company earnings to company performance on specific measures of system reliability and/or customer service. These measurement metrics are designed to promote performance-based incentive strategies for delivery of reliable electric service and a high level of customer service by electric and gas utilities in the State.*
> - PSC Chairman Garry Brown

The statewide duration performance for the most part in 2010 was acceptable. Although the statewide duration in 2010 was slightly worse than 2009, it was better than the five-year average. In 2010 NYSEG's and RG&E's duration was its best performance in the past five years.

Staff's assessment of electric service reliability performance by utilities relies on two primary metrics to measure performance: the System Average Interruption Frequency Index (SAIFI or frequency) and the Customer Average Interruption Duration Index (CAIDI or duration). SAIFI is the average number of times that a customer is interrupted during a year. CAIDI is the average interruption duration time for those that experience an interruption in electric service during the year.

Frequency of outages is influenced by factors such as system design, capital investment, maintenance, and weather. Decisions made by utilities on capital expenditures and maintenance policies, however, can take several years before being fully reflected in the frequency measures. Duration, on the other hand, is affected by workforce levels, management of the workforce, and geography.

All investor-owned electric utilities have reliability performance mechanisms (RPMs) in place as part of their rate plans. The reliability performance mechanisms impose negative revenue adjustments on the utilities that fail to meet electric reliability targets. All of the companies met their RPM targets, except as noted below.

Additionally, staff presented to the Commission its report on customer service quality which examined utilities' performance on a wide range of measures of importance to customers, including complaint rates, customer satisfaction, service appointments kept and timeliness of telephone response. In 2010, the state's electric and natural gas utilities met or exceeded the standards for performance on each of the measures of customer service as established in each of their rate plans (Case 11-E-0413).

Heat Wave Response

In July 2011, the Public Service Commission requested all New Yorkers to conserve energy use to help take stress off the electric system due to the high customer demand for electricity during a heat wave.

It is critically important for consumers to reduce their energy use at this time. Equally important is for our State's residents to stay cool and stay hydrated as hot and humid weather continues to stay with us. We must all work together to reduce unnecessary electricity usage during this heat wave.
- PSC Chairman Garry Brown

The Commission made several suggestions to help reduce energy use and to keep cool during the heat wave, including among other tips: turning off lights and unplugging electronic devices not in use; setting the thermostat on air conditioners to 78 degrees or higher; and running dishwashers, ovens, washing machines and dryers in early morning or late at night.

Staff of the Department of Public Service would continue to monitor the utilities efforts to maintain system reliability throughout the heat wave. Customers were encouraged to check their local utility's Web site for additional information on how to conserve energy use.

'Dig Safely' Revisions

In September 2011, the Public Service Commission voted to issue a notice seeking comments on proposed regulations governing the protection of underground facilities, oftentimes referred to as the Commission's Dig Safely Regulations.

The Commission noted that staff of the Department of Public Service has expended considerable efforts in enforcing the Dig Safely regulations and compiling information from a variety of sources—including investigations, industry meetings and safety organizations—to improve the process for identifying utilities' underground facilities prior to excavation work.

Based on the experience gained over the past several years and the feedback gathered from stakeholders participating in the state's one-call notification system, I would anticipate universal acceptance of the proposed revisions to our Dig Safely rules in order to provide a more seamless and timely process for identification of utilities' facilities prior to excavation activity.
- PSC Chairman Garry Brown

The Commission's rulemaking proposal included implementation of an Automated Positive Response (APR) system to help facilitate notice to an excavator that marking of utilities' underground facilities is complete; notification to local emergency responders via a call to 911 rather than separate calls to local police and fire departments; and a color code for designating radioactive materials, reclaimed water, irrigation and slurry lines which will comport with the American Public Works Association's recommended uniform color coding of the various underground utilities' facilities and the Common Ground Alliance's best practices used by facility locators to mark the various utilities' underground facilities.

New York State established the one-call notification system as a fast, easy and comprehensive way to ensure underground facilities are properly marked before a digging or excavation project begins. Dig Safely New York and DigNet of New York City and Long Island are New York's nonprofit, one-call notification systems that help the general public and professional excavators obtain information on the location of underground facilities by simply dialing 811. New York State law requires excavators and contractors to contact the one-call notification systems prior to any excavation or digging project (Case 10-M-0466).

Storm Performance Review

The intense storms that hit New York in late August and early September created great hardship for hundreds of thousands of families and businesses in New York, as well as causing extraordinary damage to the state's utility infrastructure. Staff will now begin an examination of the utilities' performance, including the adequacy of disaster planning and efforts to restore power and communicate with customers.
- PSC Chairman Garry Brown

Also in September 2011, the Public Service Commission received a briefing from staff of the Department of Public Service concerning the impacts of Hurricane Irene and Tropical Storm Lee on New York's utility and telecom services; the Commission also heard staff's plans to conduct a formal review of the performance of New York's regulated utilities.

At its peak, Hurricane Irene's sustained high winds and heavy rains, which began August 28, caused significant flash flooding and uprooting of trees that left nearly a million New York utility customers without power. Shortly thereafter, on September 4 through September 9, Tropical Storm Lee brought heavy rains and major flooding in the Southern Tier and other parts of the state already saturated from Hurricane Irene.

Along with electric service outages, staff noted that natural gas service and water service in the Central and other regions of the state were also disrupted due to mud slides and flooding. In addition, at the peak of the storms some 735,000 wireline telephone customers were without service throughout the state due to more than 4,900 downed drop wires, more than 560 broken or damaged utility poles, and more than 460 damaged aerial and underground distribution cables.

During the storm events, staff was in constant communication with the electric utilities concerning implementation of their emergency response plans and deployment of utility restoration crews and contractors, and the securing of additional help from out-of-state contractors and utility mutual assistance crews—some from as far away as Colorado. More than 3,200 electric utility crews were working following Hurricane Irene, in addition to the numerous other utility personnel to support the outage restoration efforts.

Working with 28 different telecommunications companies over the course of the storms, staff monitored restoration progress statewide and focused additional attention on facility failures due to flooding in areas served by Middleburgh Telephone Company and Pattersonville Telephone Company. Staff also assisted with the placement and activation of portable cellular services in the hardest hit areas of the state.

Natural gas service in several parts of the state had to be shut off as a safety precaution—1,500 shut offs during Hurricane Irene and 8,000 shutoffs during Tropical Storm Lee. Staff monitored the lengthy process to relight gas service to individual customers as pockets of gas customers were able to accept gas service. Flooding in Tioga County caused some 2,000 feet of water main damage and outages to 1,700 customers served by United Water resulting in a continued notice to boil water.

Staff monitored 60 utility municipal conferences and extended the hours of operation of the Commission's consumer assistance toll-free Help Line, as well as staffing 50 shifts (31 employees) of the State Office of Emergency Management's (SOEM) operations and nine shifts (34 employees) at the Belleayre and Schoharie Emergency Operation Centers. In addition, over 15 engineers (several on call 24 x 7) supported the SOEM operation.

Staff's assessment of the electric utilities' performance in responding to these storms will be based on a combination of factors, including: a thorough review of the self-assessment reports filed by the electric utilities, as required by the Commission's regulations, discussions and interviews with public officials, evaluation of complaint data filed with the Commission's Office of Consumer Services, and public comments (Case 11-E-0481).

Winter Heating Season

Based upon an annual review of local utilities' winter preparedness, the Public Service Commission announced in October 2011 that utilities providing natural gas service in the state have adequate supplies, delivery capacity, and storage inventory to satisfy customer demand under severe winter conditions. In addition to having necessary supplies of natural gas, prices are expected to be lower this heating season.

As part of the winter readiness review, staff of the Department of Public Service provided an oral report to the Commission regarding the arrangements utilities have made to obtain adequate commodity supply to meet expected customer demands under severe winter conditions. Additionally, staff reviewed the utilities' compliance with Commission policy regarding gas purchasing practices. Special attention was given by staff to the methods utilized by the utilities for gas price risk management efforts, including the use of hedges (i.e., storage gas and fixed price contracts) and financial instruments, such as futures and options.

The Commission's assessment of natural gas supplies and prices is based on staff's monitoring of utilities' actions to prepare for the winter. Throughout the winter season, staff will monitor issues that could potentially affect the utilities' operations and their customers, such as weather and heating degree day data; storage inventory management; interstate pipeline operational issues; operational flow orders; utility operation issues; gas price levels and fluctuations; and customer interruptions. Staff will report to the Commission if a problem develops, or if action is warranted.

> *Ensuring a reliable gas supply to New York's ratepayers continues to be of paramount concern to the Commission. The utilities serving New York have adequate supply and inventory to satisfy expected demand this winter. Meanwhile, the cost for natural gas is anticipated to be somewhat lower than last year, based on current market conditions. This is clearly good news for residential and commercial natural gas customers.*
>
> \- PSC Chairman Garry Brown

In New York, there are about 3.9 million natural gas heating customers. About half of the households in the state use natural gas for heating purposes and residential customers constitute the majority of natural gas customers. Nearly 90 percent of the natural gas used in New York is imported from other regions, principally from the Gulf states and Canada. The Commission regulates natural gas delivery rates and not the price of natural gas itself, often referred to as the "commodity price." Natural gas as a commodity was deregulated by Congress in 1978; prices are determined by national and international markets, not the Commission or New York utilities.

As of the end of September 2011, the projected price of flowing gas is projected by the New York Mercantile Exchange (NYMEX) to be lower than last year, and when combined with a lower cost of gas in storage and a lower price of hedged gas supply, it is expected that this year's total commodity cost on average will be 4 percent to 6 percent lower than last year. As the winter progresses, prices for November through March will change in response to changes in market conditions, such as weather and gas availability.

Steam Pilot Programs

The Public Service Commission in December of 2011 approved, with modifications, Consolidated Edison Company of New York, Inc.'s (Con Edison) Steam Demand Response Pilot Program that includes winter and summer programs to reduce load during peak periods, and a Customer Sited Supply (CSS) Pilot Program, wherein the company will purchase steam from customers with combined heat and power (CHP) facilities on their premises.

Con Edison will compensate eligible customers enrolled in the Steam Demand Response Pilot Program with a one-time advance payment and performance payments commensurate with the actual load reduction during designated peak demand periods. Eligible customers will need to have three years of valid winter and/or summer hourly demand data for their premises for program participation.

Under Con Edison's CSS Pilot Program, the company would purchase steam from customers that have a CHP facility on their premises that is connected to the company's steam system and is used primarily to serve the customer's heating, lighting and power needs at their premises. The steam system currently serves approximately 1,800 mostly high-usage customers with steam for space heating, hot water and for cooling equipment.

> *The development of demand response pilot programs is an important, cost-effective tool to help reduce the demand for energy. These pilot programs will help the company test the viability, and potentially enable the future implementation, of a large-scale demand response and customer-sited supply programs as a cost-effective option for contributing to steam peak demand reductions which ultimately will benefit all of the company's steam customers.*
>
> \- PSC Chairman Garry Brown

To participate in the CSS Pilot Program, the customer's CHP facility must be a natural gas-fueled cogeneration facility that is supplied by Con Edison's firm gas service for the delivery of gas supply to the CHP facility and that captures waste heat as a byproduct of electric production. The company will pay CSS participants for the thermal energy provided based on current market gas prices. Program participants will be required to comply with the company's dispatch requirements and pay a customer charge and contract demand charge to recover the costs associated with the delivery of the customer's steam to Con Edison's system (Case 09-S-0794, 09-S-0029).

VII. SAFETY

Electric Safety Standards

In June 2011, the Public Service Commission received a report from staff of the Department of Public Service (staff) concerning utilities' compliance with electric safety standards. These standards were established by the Commission to help ensure the safety of the public from stray voltage and to enhance the reliability of the electric system in New York State.

> *Compliance with electric safety standards remains an effective mechanism to ensure the safe and reliable operation of the electric system. The standards are comprehensive and provide for thorough testing of utilities' facilities that are most accessible to the public to identify and eliminate potentially harmful conditions before serious safety hazards and/or reliability deficiencies develop.*
> - PSC Chairman Garry Brown

The Commission's statewide electric safety standards require that regulated electric utilities in the state annually test, either manually or with mobile-scanning equipment, publically accessible electric transmission and distribution facilities for stray voltage, and all publically accessible streetlights, whether they are owned by the utility or not.

In addition, the utilities are also required to inspect all of their electric facilities at least every five years. 2010 marked the first year of the second five-year inspection cycle of New York State's entire system-wide facilities. In general, the visual inspection program had a positive impact in raising the level of awareness by all investor-owned utilities of the potential for stray voltage and the need to correct deficiencies in an appropriate manner and timeframe.

Staff reported that manual stray voltage testing was performed on approximately 4 million transmission and distribution facilities and streetlights across the State. The rate of stray voltage findings declined from 2009 to 2010, the second consecutive year that the totals have decreased.

Since 2008, Consolidated Edison has been required to complete 12 system mobile scans on an annual basis. In July of 2010, the Commission ordered two mobile scan surveys to be completed in Buffalo and one each in Yonkers, White Plains, Albany, Niagara Falls, Rochester, and New Rochelle. In Buffalo, the area of concern last year, mobile test results indicate a significant decline from 2009 to 2010.

The Commission determined to continue the existing requirements for mobile testing for stray voltage in the previously identified upstate communities for at least an additional year with the potential for a third mobile scan in Buffalo, if necessary. This will provide further data, thereby allowing the Commission to make a more informed determination on the efficacy of mobile testing going forward (Case 11-E-0267).

Gas Safety Standards

Staff of the Department of Public Service (staff) in June 2011 presented its 2010 *Gas Safety Performance Measurers Report* to the Public Service Commission examining the natural gas local distribution companies' (LDCs) performance in three areas pertaining to safety — damage prevention, emergency response, and leak management. In addition, staff made recommendations where performance improvements are needed.

> *Based on staff's report, all LDCs have demonstrated sustained improvement over the past several years. These companies — which supply natural gas to millions of homes and businesses across New York State — deserve credit for ensuring necessary safeguards are in place to protect customers. Equally important for these companies is to let their customers know what to do if a natural gas leak is suspected and to perform excavation work only after contacting the State's 811 One-Call Notification System.*
> - PSC Chairman Garry Brown

The first measure, damage prevention, examined in the staff report gauges the ability of LDCs to minimize damages to buried facilities caused by excavation activities. Staff's examination in the area of damage prevention, finds that the rate of total damages statewide improved 7.2 percent from 2009 performance, and 65 percent since 2003.

Staff attributes these positive results in reducing damage to underground facilities in part, to public education efforts undertaken by both the LDCs and the One-Call Centers — accessible to contractors, excavators or homeowners by dialing 811 prior to doing any excavation or digging.

The second measure, emergency response, analyzed in the staff report gauges the ability of LDCs to respond promptly to reports of gas leaks or emergencies by examining the percentage of calls that fall within various response times. There are three specific response goals: respond to 75 percent of emergency calls within 30 minutes; 90 percent within 45 minutes; and 95 percent within 60 minutes. Even though statewide performance declined slightly from 2009, statewide performance has improved for each goal over the past eight years.

> *Recent events throughout the country reinforce the importance of strong utility customer education programs related to natural gas safety. Therefore, I am pleased with the utilities' receptivity to incorporating, as soon as practicable, 'best practices' identified by staff into their gas safety outreach and education programs.*
> - PSC Chairman Garry Brown

The third measure addressed in the staff report, leak management, examines LDC performance to effectively maintain leak inventories and keep potentially hazardous leaks to a minimum. This measure looks at the year-end backlog of leaks requiring repair. The statewide year-end 2010 backlog was 35.6 percent less than year-end 2009. Compared to 2003, the first year of performance measures reporting, it is 84 percent less.

Incentive programs to reduce safety risks by replacing deteriorating and leak-prone infrastructure and/or reducing leak backlogs have been incorporated into past and current rate agreements for LDCs. Across the state, LDCs are collectively working to update the gas distribution infrastructure. In 2011, LDCs plan to replace more than 310 miles of leak-prone pipe in New York State. This effort will improve public safety, and over time, will help reduce the leakage rates LDCs experience.

Staff recently reviewed the utilities' outreach and education plans and the information provided on their Web sites in Case 11-G-0282, and recommended a list of "best practices" which would establish a new model for utility gas safety customer education programs across the State.

Staff will continue to work with the utilities to ensure that their enhanced natural gas outreach and education programs are implemented as soon as possible in order to increase the availability and variety of gas safety information available to New Yorkers (Case 11-G-0242).

Underground Services Protection

In December 2011, the Public Service Commission adopted amendments to its rules and regulations concerning protection of underground facilities. Revisions include permitting the use of an Automated Positive Response (APR) system by the state's One-Call Notification System to furnish a single point of contact between operators of underground facilities and excavators for the purpose of communicating the status of an excavator's request for operators to mark the location of their underground facilities at the excavator's digging site.

New York State established the One-Call Notification System as a fast, easy and comprehensive was to ensure underground facilities are properly marked before a digging or excavation project begins. The One-Call Notification System can be accessed by dialing 811. The action taken by the Commission should greatly enhance the effectiveness of the state's One-Call Notification System.

> *Damage to utility facilities caused during excavation can result in loss of utility service, personal injury and property damage. It is critical that all New Yorkers do their part in protecting vital infrastructure by using the state's One-Call System; and that communications among affected users of the One-Call Notification System be efficient as possible.*
>
> \- PSC Chairman Garry Brown

The amendments to the state's One-Call Notification System were adopted by the Commission to protect the public's safety and general welfare, and include, among others: implementation and access to an APR system will help facilitate communications between excavators and underground facilities operators; and, in the event of an emergency, excavators need only call 911, rather than two separate notifications to local police and fire departments since all regions of the State are now serviced by 911 call centers (Case 10-M-0466).

VIII. SMART GRID

Modernizing Grid

The Public Service Commission in August 2011 approved a policy statement that would establish regulatory policies and set forth guidelines for utilities to follow regarding the development of smart electric grid systems and associated efforts to modernize the electric grid.

The term smart grid refers to a variety of information, communication and automation technologies that have the potential to improve the operation of the electric system. Although a multitude of definitions exist for the smart grid, they all include the integration of information and the use of two-way communications technologies and advanced control capabilities in the electric grid system.

Recent advancements in technology, as well as continuing increases in electricity demands, have led utility regulators to consider the smart grid and its role in the modernization of the electric grid. Smart grid technologies build on automation systems that utilities have been installing for many years, and can bring enhanced reliability and reduced maintenance costs to utilities and their customers, as well as enable integration of increased levels of renewable energy and increased energy efficiency and demand response.

> *As part of the ongoing process of upgrading and replacing our transmission and distribution systems, utilities are increasingly employing smart grid technologies which, if utilized properly, have the potential to make electric power systems more reliable, robust, efficient and economical. The guidelines we are establishing support important state energy policy goals and will advance New York's leadership in the 21st century clean energy economy.*
> - PSC Chairman Garry Brown

The development of the robust and comprehensive smart grid policy statement was based on input from the state's investor-owned electric utilities and cutting-edge technology companies, hardware and software vendors, consumer representatives, not-for-profit organizations, and other governmental entities. The guidelines create the conditions that will allow optimal technology solutions to flourish. The guidelines are as follows:

- In the short term, utilities are to pursue established and reliable technologies that can provide a relatively certain return on investment. In the longer term, the billions of dollars the federal government has provided for smart grid projects nationwide will generate a significant base of knowledge and experience which, along with further development of smart grid standards, will help identify those technologies that are most effective and efficient.

- Smart grid technologies will utilize a hybrid of both public and private networks. Utilities and communication providers should work together to ensure appropriate use of commercial facilities, and to limit utility capital investments in dedicated communications infrastructure.

- Utilities must provide basic information on smart grid to customers who are largely unaware of this technology. Utilities further must provide a thoughtful and comprehensive customer education plan before commencing with implementation of technologies that require extensive customer engagement.

- Smart grid projects must be able to show demonstrable benefits in excess of costs.

- For most smart grid projects, rate recovery will be addressed through traditional means. The Commission will consider risk-sharing mechanisms for novel or unproven technology.

- Utilities can start to develop smart grid plans and projects using the existing industry standards as building blocks.

- Utilities must develop the capability to build and maintain cyber security standards. Utilities will bear the responsibility to ensure that cost-effective protection and preparedness measures are employed to deter, detect, and respond to cyber attacks, and to mitigate and recover from their effects.

- Utilities and third-party providers must protect customer privacy when projects involve the collection and use of customer data.

With the formalization of the guidelines in place, utilities now have a better understanding of the "rules of the road" to develop smart grid systems that integrate new intelligent technologies, while optimizing the use of existing facilities and resources and maintaining just and reasonable rates for electric customers. Utilities will be free to pursue established and reliable technologies that can provide a proven return on investment (Case 10-E-0285).

IX. TELECOMMUNICATIONS

Verizon Gains Flexibility

In April 2011, the Public Service Commission approved Verizon New York Inc.'s request to issue and sell up to $5 billion in long-term debt securities as part of a five-year financing plan. With the decision, the company wins significant financial flexibility to pay off short-term debt, refinance long-term debt, and fund ongoing construction efforts.

In addition to being able to borrow long-term debt, the Commission decided, in a separate proceeding, to grant Verizon added flexibility to establish new promotional programs for residential customers without having to seek additional Commission approval. Due to the competitive nature of non-basic services throughout New York State, the Commission has already given the company increased flexibility to make promotional offerings, including the widely used Verizon Credit Plan.

> *The competitive nature of the telecommunications environment in which Verizon operates, where it has no assurances of recovering incurred costs, justifies the continuation of a flexible, multi-year financing approach. As we have observed, the extraordinarily competitive telecommunications market place will continue to influence efficiencies and, therefore, Verizon's continual pursuit of optimal financing strategies is fully warranted.*
> - PSC Chairman Garry Brown

Effective April 15, 2011, Verizon will be able to set up new residential promotional offerings without regulatory approval. However, in order to allow the Commission to continue to monitor non-basic retail promotional offerings and the competitive nature of the market, Verizon will be required to file quarterly reports describing its non-basic retail promotional offerings.

In regards to the financing decision, Verizon can issue the long-term debt through private placement notes, either to affiliated or non-affiliated entities, dependent upon prevailing market conditions. Verizon will use the proceeds of the long-term debt to repay short-term debt, to refinance $1.2 billion of maturing long-term debt, and to refinance an additional $450 million of callable long-term debt with maturity dates later than December 31, 2015 (when it can achieve savings) and to fund its ongoing construction program.

This is Verizon's fourth successive five-year financing plan, the most recent being a $5 billion plan that expired on December 31, 2010. Similar to the three previous plans, the instant multi-year plan provides Verizon flexibility to operate with a wide degree of latitude given the high level of competition Verizon now faces. As a result, Verizon can issue debt at any time, in amounts and with maturities that best match its overall capital requirements (Cases 11-C-0001, 11-C-0103).

Broadband Roll-Out

In May 2011, the Public Service Commission approved the start of construction of a high-technology broadband and cable television system in St. Lawrence County by SLIC Network Solutions, Inc.

SLIC's service is a competitive alternative to the cable services offered by the incumbent cable and satellite providers. As part of the application process, SLIC submitted for environmental review the cable television system it proposes to construct in St. Lawrence County in the towns of Massena, Brasher Falls, Hopkinton, Louisville, Norfolk, Stockholm, Parishville, Colton, Waddington, Madrid, Potsdam, Pierrepont, Claire, Lisbon, Canton, Russell, Oswegatchie, Piercefield, Clifton and Fine.

> *Granting these franchises serves the public interest because it promotes consumer choice and enhances competition. As a result of our decision, St. Lawrence County residents should benefit from having greater access to high-speed broadband service, enhancing prospects for renewed economic growth and opportunity in the county.*
>
> \- PSC Chairman Garry Brown

The Commission approved franchises in the St. Lawrence County towns of Pierrepont, Madrid, and Hopkinton. While SLIC will need to file applications for each of the remaining towns, the Commission will not need to conduct any additional environmental reviews due to its assessment of the entire project in this case. This will speed approval of the remaining applications.

The project involves installation of a linear fiber optic system in the St. Lawrence County towns, consisting of 660 miles of fiber optic plant fiber and 15 pad-mounted telecommunications equipment cabinets. The single mode fiber will be installed on existing utility poles and new utility poles in selected locations within existing road rights-of-way. Underground conduit will connect the telecommunications cabinets to the service utility poles.

As proposed by SLIC, the entire project is planned to deliver advanced broadband services (voice and Internet Protocol Television services) to 5,124 un-served households, 732 served households, 112 business and 30 critical community facilities in remote northern and southern portions of St. Lawrence County. The project is funded with resources derived from the American Recovery and Reinvestment Act of 2009 (Case 11-V-0091).

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