BEFORE THE
NEW YORK STATE
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of New York State Electric & Gas Corporation for Electric Service	Case 22-E-0317
Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of New York State Electric & Gas Corporation for Gas Service	Case 22-G-0318
Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Rochester Gas and Electric Corporation for Electric Service	Case 22-E-0319
Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Rochester Gas and Electric Corporation for Gas Service	Case 22-G-0320

UTILITY INTERVENTION UNIT

LIMITED STATEMENT IN SUPPORT OF THE JOINT PROPOSAL

Dated: June 27, 2023

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I. INTRODUCTION

The Utility Intervention Unit ("UIU") of the New York State Department of State's Division of Consumer Protection submits this limited statement in support of the Joint Proposal filed by New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation ("NYSEG and RGE" or the "Companies") in the above-captioned proceedings on June 14, 2023. UIU represents the interests of consumers in utility proceedings, with a particular focus on residential and small commercial customers. When reviewing proposed changes to utility rates, UIU is often focused on the outcome of revenue allocation, which determines the financial responsibility of each service class in meeting the utility's revenue requirement. While a utility's proposal to increase its revenue requirement marks an overall increased financial burden on its customer base, the final allocation of those increased costs among the individual service classes dictates the proportion assigned to each service class in meeting that increase. This becomes a question of fairness and affordability that is often contentious among parties within a proceeding.

The Joint Proposal is the result of several months of negotiations among several parties, including UIU. The Joint Proposal was executed by the Companies, together with the Department of Public Service Staff ("DPS Staff" or "Staff"), UIU, Multiple Intervenors ("MI"), Convergent Energy and Power, LP, International Brotherhood of Electrical Workers, Local Union 10, the New York Power Authority, Nucor Steel Auburn, Inc., and Walmart Inc. (collectively the "Signatory Parties"). In this limited statement of support, UIU supports the revenue allocation section of the Joint Proposal and recommends that, should the Commission adopt the Joint Proposal, the Commission approve this section without alteration. UIU offers its limited support to further inform the record on this important issue. The revenue allocation results as they are provided in the Joint Proposal represent the outcome of extensive negotiations where meaningful concessions were made to reach a comprehensive settlement on this issue.

If approved, the Joint Proposal would set the Companies' electric and gas rates and services for three rate years commencing May 1, 2023, and ending on April 30, 2026. Compared to the rate plan initially filed by the Companies on May 26, 2022, the Joint Proposal adopts a revenue allocation approach for each Company that does not reflect any one particular Embedded Cost of Service ("ECOS") study.[1] This approach begins with the total levelized/shaped base delivery

[1] *See* Appendices BB and DD of the Joint Proposal.

increase by service classes for each Rate Year set forth in Schedule A of the Joint Proposal and results in delivery increases as shown in Schedule C of Appendix BB (electric) and Schedule A of Appendix DD (gas). UIU believes the revenue allocation outcome in the Joint Proposal is in the public interest and supports the following sections of the Joint Proposal that represent this outcome:

Electric

- Revenue Allocation, Appendix BB, Page 1–2 of 7
- Revenue Allocation, Appendix BB, Schedules C-1 and C-2

Gas

- Revenue Allocation, Appendix DD, Page 1 of 6
- Revenue Allocation, Appendix DD, Schedule A-1 and A-2

Finally, with this limited support, UIU does not take a position on any other part of the Joint Proposal or the Joint Proposal when taken together as a whole.

II. STANDARD OF REVIEW

The Public Service Commission's (the "Commission") settlement procedures and guidelines establish the standard of review for the adoption of a joint proposal resulting from settlement negotiations.[2] The standard of review is fundamentally grounded in the Commission's responsibilities and duties to ensure safe and reliable service at just and reasonable rates.[3] As such, a Commission decision to approve a joint proposal "must be . . . just, reasonable, and in the public interest."[4] To be in the public interest, a joint proposal should be consistent "with the regulatory, economic, social, and environmental policies" of the State, mirror a "likely result of full litigation and [be] within the range of reasonable outcomes," and balance "the interests of ratepayers and investors and the long-term financial viability of the utility."[5] There must also be a rational basis

[2] Case 90-M-0255 *et al.*, Proceeding on Motion of the Commission Concerning its Procedures for Settlement and Stipulation Agreements . . . , *Opinion, Order and Resolution Adopting Settlement Procedures and Guidelines: Opinion No. 92-2* (issued Mar. 24, 1992) (hereinafter *Opinion 92-2*).

[3] Pub. Serv. L. § 65(1).

[4] *Opinion 92-2*, at 30.

[5] *Id.*

for the Commission's decision.[6] In addition, the Commission will likely consider "the completeness of the record" and "whether the settlement is contested."[7]

In this limited statement in support, UIU asserts that, as a component of the Joint Proposal, the revenue allocation section is in the public interest. While the criteria in the Commission's Order 92-2 is not weighed against individual components of a Joint Proposal, UIU believes its singular input on this important issue is meaningful for the record. This section reflects compromise on the part of the Signatory Parties and balances their positions, including parties that would normally be adversarial. When taken together, the outcome of the revenue allocation section of the Joint Proposal is in the public interest and should be adopted by the Commission.

III. UIU SUPPORTS THE REVENUE ALLOCATION RESULTS IN THE JOINT PROPOSAL

Achieving an equitable distribution of costs is a central priority of UIU in rate proceedings. As a general concept, the outcome of one or more ECOS study is used as a guide to allocate revenue among the service classes. The details of an ECOS study impacts revenue allocation by informing the distribution of revenue among the service classes.

In direct testimony, UIU largely supported the Companies' revenue allocation methodology.[8] However, UIU was concerned with the Companies' reliance on a minimum system methodology in its ECOS studies.[9] UIU does not support a minimum system approach because this methodology tends toward shifting costs onto low-usage customer classes, which has the effect of reducing the share of costs attributed to classes with large-usage customers.[10] In direct testimony, UIU proposed using informed judgement to balance the outcomes of more than one

[6] *Id.*

[7] *Id.*

[8] Direct Testimony of the UIU Rate Panel, at 37–38 (filed on Sept. 26, 2022). UIU preferred the Companies' ECOS approach (specifically related to classifying distribution costs as 100% demand-related) used in their 2009 (electric) and 2009, 2015, and 2019 (gas) cases. Direct Testimony of the UIU Rate Panel, at 20.

[9] *Id.* at 37–38.

[10] *See* Direct Testimony of the UIU Rate Panel, at 17–19.

ECOS methodology, to achieve a more equitable result.[11] In reply testimony, UIU preferred the Companies' use of a demand allocator over the respective proposals by MI and DPS Staff.[12]

UIU also raised concerns about whether the Companies' proposed revenue allocation rate mitigation step was equitable, arguing that this step would cap delivery cost increases to service classes in a manner that, when applied, benefitted large-use customer classes to the detriment of all other classes.[13] UIU additionally noted this cost shift onto consumer classes and questioned if the mitigation step was actually needed, as the total bill impacts of the large-use customer classes who would benefit from this mitigation appeared to be relatively moderate.[14]

As a result of settlement negotiations, the Joint Proposal includes revenue allocation results for three rate years that are not attributable to any one ECOS study.[15] Instead, the revenue allocation reflects negotiations among the Signatory Parties, which includes parties that would normally be adversarial. UIU believes the revenue allocation results are just, reasonable, and in the public interest. In addition, these results provide a reasonable outcome for consumers when compared to the approach proposed in the Companies' initial filing.[16] Taking into account the controversies surrounding the adoption of any one particular ECOS study to guide the revenue allocation process, UIU believes the Joint Proposal's compromised approach arrives at an equitable revenue allocation result. It is more reasonable than what could be achieved through reliance on any single ECOS study, and it appropriately balances the positions of parties that are normally adversarial on this topic.

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[11] *Id.* at 25–26.

[12] *Id. See also* Rebuttal Testimony of the UIU Rate Panel, Demand Allocation Factors Section, at 4 (filed Oct. 18, 2022).

[13] *See* Direct Testimony of the UIU Rate Panel, at 37–41.

[14] *Id.*

[15] Appendix BB Page 1 of 7 and Appendix DD Page 1 of 6 states: "The revenue allocation determined in these proceedings does not use or otherwise reflect any one ECOS study sponsored by any party in these proceedings. Instead, agreement was reached concerning the allocation of the revenue increases to individual service classifications."

[16] For instance, NYSEG's initial filing included a proposed revenue allocation methodology that would result in an electric delivery revenue increase of 39.7% in Rate Year 1 for SC-1 customers. In comparison, the Joint Proposal increases SC-1 delivery revenues by 17.6%. See Exhibit___(RARD-3), Schedule 1, Page 1 of 1 of the Companies' Direct Testimony of Revenue Allocation and Rate Design Panel and Page 1 of 6 of Schedule C-1 to Appendix BB of the Joint Proposal.

IV. <u>CONCLUSION</u>

As a product of considerable negotiations, the revenue allocation section of the Joint Proposal represents a compromise by the Signatory Parties to reach a settlement that appropriately balances the Parties' varied interests. The Joint Proposal's approach represents a reasonable compromise, does not adopt any specific ECOS methodology, and does not overburden any particular service classification. Thus, UIU adds its limited support to the record for the Commission's consideration when deciding whether to approve the Joint Proposal.

Respectfully,

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