

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on August 22, 2007

COMMISSIONERS PRESENT:

Patricia L. Acampora, Chairwoman
Maureen F. Harris, recused
Robert E. Curry, Jr.
Cheryl A. Buley

CASE 07-E-0479 - Tariff Filing of New York State Electric & Gas
Corporation to Offer Customers a Single Fixed
Supply Service.

ORDER ESTABLISHING COMMODITY PROGRAM

(Issued and Effective August 29, 2007)

BY THE COMMISSION:

INTRODUCTION

New York State Electric & Gas Corporation (NYSEG) initiated this case on April 5, 2007 by filing tariff amendments substantially revising its current commodity supply service offerings. Following settlement discussions with all parties, a group of active parties, including NYSEG, Department of Public Service Staff (Staff) and intervenor parties representing customers and energy services companies, filed a Joint Proposal for the resolution of all pending issues in the case. The Joint Proposal recommends that NYSEG continue to offer both default commodity service and an elective fixed price option (FPO) for three years at specified terms and conditions. The Joint Proposal also accelerates the transfer of additional large customers to mandatory hourly pricing. Because we find that the Joint Proposal is in the public interest, we adopt its terms and conditions without modification but with some clarifications included in the discussion below.

PROCEDURAL HISTORY

NYSEG filed tariff amendments on April 5, 2007 to enact changes in its current supply service offerings. In its letter to the Commission with the filing, NYSEG explained that the Commission's decision on this revised commodity proposal would affect NYSEG's decision, due September 1, 2007, whether to offer its customers the option of a fixed price for commodity supply for calendar year 2008.¹ Consequently, NYSEG sought a Commission decision in August of 2007 on these proposed revisions to its commodity offerings.

Notice of NYSEG's tariff filing was published in the New York State Register on May 16, 2007. There were no comments received in response to that notice.

The matter was assigned to an administrative law judge (ALJ) who convened a procedural conference on May 14, 2007. Following that conference, the judge issued a procedural ruling seeking further input from the parties regarding the nature of the case, including whether NYSEG's filing constituted a "major change" under PSL §66(12) and the procedure that would be appropriate or required as a consequence. As part of that process, NYSEG submitted a revenue forecast on June 5, 2007 showing the impact of its proposed changes on its overall revenues for calendar year 2008. Other parties submitted

¹ NYSEG's current supply service offerings are governed by our orders in Case 05-E-1222, New York State Electric & Gas Corporation - Electric Rates, Order Adopting Recommended Decision with Modifications (issued and effective August 23, 2006) (the NYSEG Rate Order), and Order on Rehearing (issued and effective December 15, 2006). In the NYSEG Rate Order, we set forth a fixed price commodity service option that NYSEG was required to offer in calendar year 2007 and that NYSEG has the option to offer in calendar year 2008. Under the Order on Rehearing, NYSEG is required to notify us and all parties to the case of its decision regarding its calendar year 2008 offering by September 1, 2007.

comments on NYSEG's revenue impact analysis and on the procedure and schedule generally.

By notice dated May 17, 2007, NYSEG notified all parties of the commencement of confidential settlement negotiations, which were held on May 29 and June 7, 18, and 22, 2007. On June 22, 2007, NYSEG notified the ALJ that the parties had reached an agreement in principle. The ALJ issued a ruling on June 29, 2007 providing for procedures and a schedule to address the anticipated Joint Proposal reflecting the parties' agreement.

The parties filed the Joint Proposal on July 10, 2007, endorsed by NYSEG; Staff; the New York State Consumer Protection Board (CPB); Multiple Intervenors; Constellation NewEnergy, Inc. and the Constellation Energy Commodities Group, Inc.; Direct Energy Services, LLC; Energetix Inc. jointly with NYSEG Solutions, Inc; Integrys Energy Services of New York, Inc.; Strategic Energy, LLC; and Nucor Steel Auburn, Inc. Statements in Support of the Joint Proposal were submitted by NYSEG, Staff, CPB, Multiple Intervenors, and Energetix/NYSEG Solutions. In addition, Nucor Steel Auburn submitted a brief letter in support. Staff filed a further Statement in Reply to the Statements of the other parties on July 19, 2007.

Pursuant to the schedule established for the proceeding, a hearing was conducted on July 31, 2007. At that time, the prefiled testimony submitted by NYSEG was introduced onto the record as an exhibit to establish the backdrop against which the settlement among the parties was negotiated. Written answers to numerous questions from the ALJ were also introduced. A panel of NYSEG witnesses then answered further questions from the ALJ and various parties offered additional clarification and supporting statements.

The Joint Proposal was issued for public comment under cover of a notice issued July 12, 2007. The notice, which included a two-page summary of the Joint Proposal prepared by the proponents, was widely distributed to municipalities and interested organizations throughout NYSEG's service territory and was accompanied by a press release issued by the Department. In response to that notice, we received four letters from NYSEG customers, all opposing fixed price service. Those customers assert that the fixed price option benefits only NYSEG. One customer asserts that NYSEG will overstate the fixed price.

Rather than separately summarizing the formal comments received from the parties in this proceeding, we will note them in our discussion of the substantive elements of the Joint Proposal, below.

SUMMARY OF JOINT PROPOSAL

Under the Joint Proposal, NYSEG's commodity service offerings would be established for three calendar years beginning January 1, 2008 and concluding December 31, 2010. However, if there is a case examining NYSEG's electric delivery rates during this three-year period, either initiated by NYSEG or the Commission, commodity service offerings could be considered and modified. The Joint Proposal provides that parties will convene during 2010 to evaluate the continuation of the commodity offerings beyond December 31, 2010. In any event, Commission approval would be required for continuation of the supply service plan beyond December 31, 2010.

The general framework for the commodity supply service currently offered by NYSEG, under which the fixed price option may be affirmatively elected by residential and small commercial and industrial customers, is continued for the three-year term. Some important modifications are made:

1. The pricing formula for the FPO is modified, in that the "conversion factor" applied to wholesale prices to produce a retail rate is altered from 117.5% plus 4 mills per kWh to 116.9% plus 6 mills per kWh.
2. Any customer that enrolls in the fixed price option during the annual enrollment period, November 1 through December 31 of the preceding year, may leave the FPO to take service from an ESCO without any exit fee or penalty. NYSEG's "ESCO Option with Supply Adjustment" (EOSA), previously the only option for customers leaving the FPO during its term, will be eliminated. As is currently the case, however, an FPO customer may not switch to NYSEG's default service once s/he has enrolled for a given calendar year.
3. The non-bypassable charge (NBC) paid by all customers, whether on NYSEG's fixed price option, NYSEG's default service, or ESCO service, will be changed from a charge that varies monthly to a fixed charge. The fixed NBC will be set pursuant to NYSEG's forecast at the beginning of each enrollment period and remain unchanged for the following calendar year. However, deviations from the forecasted amounts of the costs recovered and revenues received through the NBC will be reconciled at the end of each year, with the reconciled amount added to or subtracted from the NBC set for the following year.
4. The earnings sharing mechanism will be modified. Currently, NYSEG retains the first \$5 million of gain or absorbs the first \$5 million of loss on its FPO commodity service income each year. Under the Joint Proposal, NYSEG shall retain the first \$10 million of pre-tax supply service income but absorb 100% of losses on supply

service. For gains above \$10 million, NYSEG will be entitled to retain 15% of gains for the benefit of shareholders, rather than the 20% it currently retains above the current \$5 million deadband.²

5. NYSEG will accelerate \$5 million of the customers' share of anticipated earnings by imputing \$5 million for the benefit of customers in the 2008 NBC that will be calculated in November 2007.

The Joint Proposal accelerates the schedule under which larger commercial and industrial customers are required to take supply service from NYSEG pursuant to mandatory hourly pricing (MHP). Under the Joint Proposal's schedule, customers with peak demands of 500 kW or greater will move to MHP in 2008; those with demands of 400 kW or greater will move to MHP in 2009; and those with demands of 300 kW or greater will move to MHP in 2010, subject to existing exemptions.

NYSEG will continue its existing program under which it offers to purchase receivables from ESCOs. Under the Joint Proposal, the purchase of receivables discount is fixed for the three-year term of the agreement. The Proposal provides for a further collaborative among the parties to establish a "price to compare" program that will simplify the display of price comparisons between ESCO and utility commodity offers on the bills of NYSEG customers. The parties will also collaborate on

² Our February 16, 2007 Order Directing Further Tariff Revisions and Making Rates Permanent in Case 05-E-1222 requires NYSEG to calculate its commodity earnings for purposes of the sharing mechanism on a pre-tax basis. On March 16, 2007, NYSEG filed a Petition for Rehearing, challenging this aspect of the order. The Joint Proposal specifies that earnings are calculated and shared based upon NYSEG's pre-tax total supply service income for each year. The Joint Proposal also provides that, upon our approval of its terms, NYSEG will withdraw the pending Petition for Rehearing.

an ESCO introduction program to replace the ESCO referral program currently pending before us.

Under the Joint Proposal, NYSEG will continue to replace any legacy hedges that expire during the term of the agreement with new hedges for its default customers, subject to any further orders in Case 06-M-1017.³

In response to our recent initiative to develop revenue decoupling mechanisms (RDMs),⁴ the Joint Proposal provides that consideration of a revenue decoupling mechanism will occur in another proceeding and therefore is not addressed by the Joint Proposal. The parties do agree, however, that any future RDM will address both NYSEG's commodity and delivery service.

DISCUSSION

In evaluating the settlement embodied in this Joint Proposal, we look to ensure that it strikes a balance among the protection of ratepayers, fairness to investors and the long-term viability of the utility; that it is consistent with sound environmental, social and economic policies of the Commission and the State; and that the results fall within a range of reasonable results that would likely have been produced from our consideration of a fully-litigated proceeding.⁵ Evaluation of

³ Proceeding on Motion of the Commission as to the Policies, Practices and Procedures for Utility Commodity Supply Service to Residential and Small Commercial and Industrial Customers (instituted by order dated August 28, 2006).

⁴ Cases 03-E-0640 & 06-G-0746, Potential Disincentives Against the Promotion of Energy Efficiency, Order Requiring Proposals for Revenue Decoupling Mechanisms (issued and effective April 20, 2007).

⁵ Case 90-M-0255, Proceeding on Settlement Procedures and Guidelines, Opinion 92-2 (issued and effective March 24, 1992), p. 30 & Appendix B.

these criteria help us to make our ultimate determination that a decision is just, reasonable, and in the public interest.⁶ Our evaluation of the procedures followed and the substantive result in this case lead us to conclude that the commodity plan presented in the Joint Proposal, with some slight clarifications and caveats discussed below, meet these standards.

Initially, we note the procedural soundness of the case. Wide notice of NYSEG's initial filing, an early procedural conference, and the submission of the Joint Proposal was afforded to likely interested parties and the public generally through notices issued by the Department, which were also posted on our web site, or through publication in the New York State Register. NYSEG followed our settlement guidelines in providing notice of its intention to engage in negotiations and duly notified active parties of the times and locations of such negotiations to allow for their full participation. Following the filing of the Joint Proposal, there was an opportunity for two rounds of comments, including the solicitation of public comment generally. In addition to the Statements in Support filed by the parties, the ALJ solicited substantial additional information through the posing of 26 written interrogatories and the questioning of a panel of company witnesses at the public evidentiary hearing conducted on July 31, 2007. These procedures have ensured both full and fair opportunity for all parties to participate and to be heard and the development of a complete record on which we base our decision here.

Given the active involvement of a wide array of parties in this proceeding, the lack of opposition to the Joint Proposal here is notable. As several parties note in their written Statements in Support and on the record at the hearing,

⁶ Id., p. 30.

the unanimity of support for the commodity plan set forth in the Joint Proposal stands in striking contrast to the multiplicity of opposing views that were vigorously litigated in Case 05-E-1222. The record in that prior case, which addressed the same issues implicated in this proceeding, establishes the proponents of the Joint Proposal as "normally adversarial parties."⁷ The broad support for this proposal by CPB, representing residential customers; by Multiple Intervenors and Nucor Steel Auburn, on behalf of industrial customers; and by five separate energy services companies commends the Proposal as a reasonable compromise among disparate interests.

We also note that the result here falls within the range of outcomes that could be anticipated if the case were litigated. The Proposal initially filed by NYSEG in this proceeding departed fairly dramatically from the results ordered by us in the NYSEG Rate Order. For example, NYSEG proposed to eliminate the current variable hedged default rate for residential and small commercial and industrial customers, so that fixed rate service would become the default and only service available for those customers. NYSEG proposed a completely new methodology for calculating the price of the fixed rate service, among other proposed changes.

In its Statement in Support, CPB summarizes its many concerns regarding NYSEG's initial proposal. Multiple Intervenors states its view that the Commission would not have approved the proposal filed by NYSEG and that, in fact, NYSEG would likely have terminated fixed price service altogether absent a settlement in this proceeding. Instead of a significant departure from the commodity program we approved for

⁷ Id., Appendix B, p. 8 ("In judging a settlement, the Commission shall give weight to the fact that a settlement reflects the agreement by normally adversarial parties.").

NYSEG last year, the plan set forth in the Joint Proposal represents instead a minor modification of the status quo established under our prior case. Both Staff and Multiple Intervenors suggest that the similarities between the results here and the previously ordered regime are themselves indicia of the reasonableness of the result.

Apart from these general observations, we have examined the specific provisions of the Joint Proposal carefully to ensure consistency with our policies and mandate under the Public Service Law. We address some of the Proposal's terms below.

Three-Year Continuation of FPO

Several of the proponents of the Joint Proposal hail its three-year term, ensuring the continuation of a fixed price option, as an important benefit offering stability to customers, NYSEG, and ESCOs for planning purposes. Many of the parties point to the popularity of the current fixed price offer as demonstrating sufficient demand that justifies its continuation. For CPB, the continuation of the FPO is the most important aspect of this Joint Proposal. CPB notes the considerable customer confusion that resulted from last year's case, when the fixed price offer was made an option that must be affirmatively selected by customers, rather than the default service. Although CPB would prefer the fixed price to be the default, reversing the options again would create more confusion and frustration, CPB writes. Instead, the stability created by the three-year term of this proposal is important to CPB.

Both Staff and Energetix/NYSEG Solutions refer to this three-year term as a transition period toward a future state,

envisioned by our Policy Statement on Retail Markets,⁸ in which fixed price service is offered by the competitive market, rather than the utility. According to Energetix/NYSEG Solutions, the competitive market has not developed to a point at which we could rely on ESCOs to offer fixed price service at a just and reasonable rate. Therefore, that party asserts, eliminating the utility-sponsored fixed price option would not be justified until the competitive markets mature. Staff refuses to accept Energetix/NYSEG Solutions' characterization of the market and says that an analysis of the development of the competitive market is unnecessary here. Instead, Staff asserts, the selection of the FPO by substantial numbers of NYSEG customers is sufficient to justify continuation of the program.

In the NYSEG Rate Order, we based our decision to require NYSEG to offer FPO service in 2007 and to allow NYSEG to offer such service in 2008 upon our assessment of the market and upon the expectations of NYSEG's customers, who had been receiving fixed price service as the default option provided by the utility. We considered the shift in the FPO from the residential default service to an option that must be affirmatively selected by customers to be an appropriate transition mechanism as the competitive market develops. We agree with the proponents of the Joint Proposal that a three-year continuation of the FPO is consistent with that transition. As CPB points out, it is important for customers that the "rules of the game" not change again right away, to reduce confusion and frustration. At the same time, NYSEG and several signatory

⁸ Case 00-M-0504, Proceeding on Motion of the Commission Regarding Provider of Last Resort Responsibilities, the Role of Utilities in Competitive Energy Markets and Fostering Development of Retail Competitive Opportunities, Statement of Policy on Future Steps Toward Competition in Retail Energy Markets (August 25, 2004).

ESCO parties apparently agree that the three-year time horizon of the Joint Proposal allows them to plan for their businesses without undue restriction of the market. Our approval is based on these practical considerations rather than an assessment of the competitiveness of the market.

While we are supportive of the stability and certainty afforded by the Joint Proposal, the terms of the three-year plan must, as always, remain subject to further initiatives coming from this Commission over the next three years that advance other important objectives. For example, we recently announced our commitment to achieve 15% energy efficiency savings by 2015.⁹ There is potential tension between a program of fixed prices continuing for three years, on the one hand, and efficiency efforts that might be based on sending more accurate, time-sensitive market price signals to consumers to encourage conservation, on the other hand. Nevertheless, many energy efficiency programs could be compatibly layered onto the structure of this plan. Moreover, as explained at the hearing, NYSEG currently offers certain fixed price customers the option of different rates for day and night use, which together average the fixed price. Therefore, while we do not intend to imply that the plan approved here must necessarily be disrupted during its term, we make clear the possibility that such disruption could occur pursuant to subsequent Commission orders impacting upon the matters decided here.¹⁰

⁹ Case 07-M-0548, Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard, Order Instituting Proceeding (issued and effective May 16, 2007).

¹⁰ Similarly, there are potential conflicts that must be addressed between the plan ordered here and the goals of a revenue decoupling mechanism. As discussed below, that issue will be included in a new proceeding.

Change in FPO Pricing

As noted above, the fixed price offer will be calculated in much the same way as established under the NYSEG Rate Order. Staff asserts that, because the calculation under the Joint Proposal is basically the same as before, it is reasonable here. The change in the conversion factor will result in increased revenues to NYSEG, forecast to be approximately \$3.5 million or a .26% increase in 2008, according to Staff. NYSEG will also benefit from an increase in the earnings sharing threshold from \$5 million to \$10 million. Staff asserts that these enhanced revenues are "not unduly favorable to the utility."¹¹

Both Staff and CPB assert that benefits to NYSEG from these changes to the conversion factor and the earnings sharing mechanism are balanced by the offsetting impacts of other provisions that together render them just and reasonable. They point to the change in the sharing percentage above the \$10 million deadband, which increases ratepayers' share from 80% to 85%. Also, whereas the earnings sharing provision is currently symmetrical, providing for sharing of gains or losses, under the Joint Proposal, NYSEG takes on all risk of loss. Another customer benefit seen as balancing the increased revenues to NYSEG is the acceleration of the customers' share of first-year losses, which will be imputed immediately as a \$5 million credit to the non-bypassable charge. The more generous earnings sharing mechanism is cited by Multiple Intervenors as the primary reason for its support of this Joint Proposal.

We agree with the proponents that, on balance, the FPO pricing provisions are reasonable. Ratepayers are ultimately protected through the earnings sharing mechanism, which will flow through 85% of excess supply service income.

¹¹ Staff's Statement in Support, p. 12.

Establishment of a Fixed NBC

One of the significant changes made under the Joint Proposal from the current commodity offerings is that NYSEG's non-bypassable charge will become a forecasted, fixed charge that will be same for all customers, whether they receive fixed price service, default service, or service from an ESCO.¹² Under the NYSEG Rate Order, all customers within a given service class are currently charged the same variable non-bypassable charge regardless of whether they are taking fixed price, default, or ESCO service. One reason for the variability of the current NBC is that the NBC is the vehicle for assessing all customers for the effects of legacy contracts with non-utility generators. Because the NBC portion of the legacy contract costs varies inversely with the market price of power, the variable NBC serves as a hedge against the variability of the market price of power for default and ESCO customers.

Under the Joint Proposal, NYSEG will forecast its estimate of the NBC for the year, which will then be embodied in the fixed NBC for that year.¹³ However, deviations from the forecast on an annual basis will be trued-up and reconciled when the NBC is reset for the following year. In this way, the NBC

¹² Historically, the allocation of low-cost power from the New York Power Authority (NYPA) for the benefit of residential customers has flowed through the NBC, resulting in differences between the residential NBC and the non-residential NBC. At the time of the development of the record in this proceeding, that allocation was uncertain, so that the record reflects an identical NBC for all customers during the three-year plan. If some allocation for the benefit of residential customers continues, there will continue to be a distinction between residential and non-residential classes. However, there will be no difference within those classes for customers taking default service, fixed service from NYSEG, or ESCO service.

¹³ The forecast methodology is the same used by NYSEG currently in establishing its total (commodity plus NBC) price for its FPO.

continues the hedging effects of the legacy contracts on an annual, rather than a monthly, basis.

Many of the proponents cite the creation of the fixed NBC as a great benefit to customers and the retail competitive market. According to CPB, customers do not understand the current variable NBC, so that a fixed NBC will improve understanding and greatly simplify price comparisons for customers. Staff and NYSEG similarly support the price comparison ease as a benefit of the fixed NBC. For the larger industrial customers represented by Multiple Intervenors, the loss of the variable NBC is not a benefit. Therefore, Multiple Intervenors asserts, it would prefer the fluctuating NBC that acts as a hedge. However, Multiple Intervenors accepts the fixed NBC in exchange for the earnings sharing benefits of the Joint Proposal.

We are persuaded that the benefits cited by the parties outweigh the loss of the month-to-month hedging function currently provided to default service customers by the variable NBC. The record demonstrates that the monthly hedging effect is imperfect at best, due to a lag in the assessment and calculation of NBC costs passed onto consumers. This timing mismatch between the flow-through of market prices for default service customers and the NBC hedges assessed at a later time diminishes the effect of the variable NBC as a constraint on the monthly variability of default service pricing. Moreover, during the three-year period covered by the plan set forth in the Joint Proposal, additional legacy hedges collected through NYSEG's NBC are due to expire. As those contracts expire, NYSEG commits under the Joint Proposal to replace them with new hedges against variability, which will be collected directly through commodity rates rather than the NBC. As this occurs, the relative importance of the NBC as a hedging instrument will

decline substantially. NYSEG's hedging activities on behalf of default customers will be subject to potential further modification as a result of our generic proceeding, Case 06-M-1017. With that commitment, and with the annual hedging effect of the NBC preserved for customers, we are persuaded that default customers are sufficiently protected under the Joint Proposal's terms. The simplification of the NBC will benefit customer understanding and the retail competitive market.

Other Competitive Initiatives

In addition to the effects that the fixed NBC will have in advancing retail competition, the proponents of the Joint Proposal cite numerous other aspects of the Joint Proposal that advance important Commission policies regarding customer migration. One important change is that FPO customers will be allowed to switch at any time to ESCO service without any exit fee or penalty. The elimination of the EOSA option under the Joint Proposal is cited by Staff and CPB as a benefit due to the confusing nature of the option. Staff and CPB both cite the "price to compare" feature and the ESCO Introduction Program as important programs that will allow customers to make informed decisions. An important benefit to ESCOs is the continuation of the purchase of receivables program and the fixing of the discount rate for that program for the three-year term of the agreement, which will give ESCOs cost certainty. While these changes benefit the retail access market, they do not extract subsidies from the general body of ratepayers, Staff asserts.

We agree that the Joint Proposal introduces significant improvements that will further customer choice and the ability of ESCOs to rely upon a fair competitive market. The Joint Proposal thus advances our goals and objectives of developing a fair and open competitive market.

Environmental and Efficiency Policies

The Joint Proposal makes important advances toward improving the efficiency of resource deployment in the State by accelerating the schedule for moving additional large customers to mandatory hourly pricing (MHP). In its Statement in Support, Multiple Intervenors acknowledges that individual industrial customers may resist the conversion to MHP as undesirable, but the overall result of the program will benefit all customer classes, large and small. The advancement of this important policy to move customers to hourly pricing is indeed a benefit to the State as a whole.

The Joint Proposal also acknowledges our recent initiative to ensure that utilities have no disincentives to engaging in energy efficiency programming, through the use of revenue decoupling mechanisms (RDMs).¹⁴ While the Joint Proposal does not address an RDM directly, it includes NYSEG's commitment that any future RDM will address both commodity and delivery service. Several of the proponents cite this feature as an important benefit of the Joint Proposal.

While this commitment regarding the scope of an RDM is a positive feature of the Joint Proposal, we are concerned by the lack of any procedural commitment in the Joint Proposal to move forward with efforts to ensure that an RDM is in place for NYSEG on a timely basis. Clearly, the short timeframe in which the parties collaborated and reached agreement in this case did not allow for the full development and consideration of an RDM. In order to ensure that such consideration commences promptly, we are instituting a proceeding now to develop a revenue decoupling mechanism for NYSEG. That proceeding will be

¹⁴ Cases 03-E-0640 & 06-G-0746, supra, Order Requiring Proposals for Revenue Decoupling Mechanisms.

assigned a separate case number and move forward promptly to ensure that this important policy objective is realized.

CONCLUSION

As discussed herein, the Joint Proposal presented by the parties represents a just and reasonable commodity program for NYSEG and its customers for the next three years. We approve the program as presented by the parties, while noting, as we do above, the potential for reopening its provisions as necessary to accomplish other important policy initiatives. Moreover, as noted, we will begin immediately a new proceeding to develop a revenue decoupling mechanism for NYSEG, which was omitted from the Joint Proposal.

The Commission orders:

1. The rates, terms, conditions and provisions of the Joint Proposal dated July 10, 2007, filed in this proceeding and attached hereto as Attachment 1, are adopted and incorporated herein to the extent consistent with the discussion in this order.

2. New York State Electric & Gas Corporation shall file a written statement of unconditional acceptance of this order on or before August 31, 2007.

3. New York State Electric & Gas Corporation is directed to file a supplement, to become effective on not less than one day's notice on or before September 28, 2007, canceling the tariff amendments and statement listed in Attachment 2.

4. New York State Electric & Gas Corporation is directed to file such tariff amendments as are necessary to effectuate the terms of this order. Such tariff amendments must be filed on or before September 28, 2007 to become effective on January 1, 2008, and copies shall be served on all active

parties to this proceeding. Any party wishing to comment on the tariff amendments may do so by filing an original and five copies of its comments with the Secretary and serving its comments upon all active parties within seven days of service of the tariff amendments. If the amendments are found not to be in compliance with this order, the Commission will order revisions or take such further actions as are necessary to ensure compliance prior to the effective date of the amendments.

5. Upon acceptance by New York State Electric & Gas Corporation of this order, the Company shall withdraw its pending petition for rehearing in Case 05-E-1222.

6. New York State Electric & Gas Corporation shall take any and all other steps necessary to implement the terms of this order.

7. This proceeding is continued until ordering clauses 2, 3, 4, 5 and 6 shall have been complied with, after which, this proceeding will be closed.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Secretary

ATTACHMENT 1

BEFORE THE
NEW YORK PUBLIC SERVICE COMMISSION

Tariff Filing of New York State Electric &)	
Gas Corporation to Offer Customers a Single)	Case 07-E-0479
Fixed Supply Service)	

JOINT PROPOSAL

Dated: July 10, 2007

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CASE 07-E-0479
NEW YORK STATE ELECTRIC & GAS CORPORATION

JOINT PROPOSAL

This Joint Proposal is made as of this 10th day of July, 2007 by and among New York State Electric & Gas Corporation ("NYSEG" or the "Company"), Staff of the New York State Department of Public Service ("Staff"), New York State Consumer Protection Board ("CPB"), Multiple Intervenors ("MI"), Constellation NewEnergy, Inc. ("Constellation New Energy"), Constellation Energy Commodities Group, Inc. ("CECG"), Direct Energy Services, LLC ("Direct"), Energetix, Inc. ("Energetix"), Integrys Energy Services of New York, Inc. ("Integrys Energy"), NYSEG Solutions, Inc. ("NYSEG Solutions"), Strategic Energy, LLC ("Strategic Energy"), Nucor Steel Auburn, Inc. ("Nucor") and such other parties to this proceeding whose authorized representatives have signed the execution pages (collectively referred to herein as the "Signatory Parties"). The Signatory Parties agree to the terms of this Joint Proposal to be presented to the New York State Public Service Commission (the "Commission").

I. PROCEDURAL HISTORY AND OVERVIEW

1. In its Order Adopting Recommended Decision with Modifications issued August 23, 2006 in Case 05-E-1222 (the "NYSEG Rate Case Order"), the Commission authorized NYSEG to provide customers a fixed price option ("FPO") for residential and certain commercial & industrial ("C&I") customers for one year (i.e., 2007) and allowed NYSEG to continue such service for a second year (i.e., 2008). NYSEG Rate Case Order at 14.

2. To set the FPO rate, the Commission adopted a methodology that relied upon a forward wholesale market rate multiplied by a "retail conversion factor" of 117.5% plus 4 mills. Id. at 31. On a customer's bill, the supply and non-bypassable charge ("NBC" and also known as

the "Transition Charge") components of the FPO varied each billing period, but the total of those components remained fixed. Id. at 40-41. In addition to the FPO, NYSEG was required to offer residential and certain C&I customers a variable price supply offering. Id. at 11. The variable price offering served as the default for customers that made no affirmative choice during the enrollment period. The default rate for residential and non-demand billed C&I customers (SC 1, 5, 6, 8, 9, 12, and streetlighting) was termed "Default Service Offering" ("DSO"). Id.

3. Pursuant to the NYSEG Rate Case Order, the small (with demand less than 1 MW) C&I customers (SC 2, 3 and 7) had two NYSEG supply options: 1) a variable price option ("VPO"), the default; and 2) the FPO described above. Large C&I customers were served via NYSEG's hourly market price ("MHP") service. The NBC for any customers taking VPO, DSO or MHP service was variable.

4. During a two-month enrollment period, customers had the opportunity to choose from the available NYSEG supply options or to choose to take supply from an energy service company ("ESCO"). Customers that chose the FPO service from NYSEG during the enrollment period could elect to take ESCO service at a later date via the ESCO Option with Supply Adjustment ("EOSA"), which included a market supply backout that varied by billing period.

5. In authorizing the FPO, the Commission noted that it was "mindful of the policy goals expressed in [its] Competition Policy Statement." Id. at 8. However, while the Commission noted its continued belief that customers would be best served by a competitive market, it found that specific circumstances in NYSEG's service territory warranted a deviation from the Policy Statement and justified the continuation of NYSEG's FPO on a transitional basis. Id. at 4.

6. In its Order on Rehearing issued on December 15, 2006 in Case 05-E-1222, the Commission required NYSEG to notify the Commission and the active parties in that proceeding by no later than September 1, 2007 of NYSEG's decision regarding the offering of an FPO in 2008.

7. On April 5, 2007, NYSEG filed new tariff leaves and supporting testimony seeking to alter fundamentally its supply service beginning January 1, 2008.

8. By notice dated May 17, 2007, NYSEG notified all parties of the commencement of confidential settlement negotiations, which were held on May 29, 2007. Settlement negotiations continued on June 7, June 18 and June 22, 2007.

9. All settlement negotiations were conducted in accordance with the Commission's Settlement Rules, 16 NYCRR § 3.9, and Settlement Guidelines set forth in Opinion 92-2.¹ All parties received appropriate advance notice of all negotiations.

10. This Joint Proposal is the consensus position and proposal of the Signatory Parties for resolution of this case. The Signatory Parties are aware of no active party to this proceeding that opposes this Joint Proposal.

II. OVERALL FRAMEWORK

1. The Signatory Parties have developed a comprehensive set of terms and conditions for a three-year supply service plan for NYSEG's electric business ("NYSEG's Supply Service Plan"). The terms and conditions are set forth below. This Proposal specifically addresses the following topics:

A. Term;

B. Supply Service Options;

¹ Case 90-M-0255, et al. – Proceeding on Motion of the Commission Concerning its Procedures for Settlement and Stipulation Agreements, filed in C11175, Opinion and Order and Resolution Adopting Settlement Procedures and Guidelines, Opinion No. 92-2 (Mar. 24, 1992).

- C. Customer Choice and Collaborative;
- D. Earnings Sharing;
- E. NBC;
- F. Revenue Decoupling Mechanism;
- G. Hedges; and
- H. Other Provisions.

A. Term

1. The Signatory Parties agree that a term that is longer than one year will provide stability in the market without extending too far into the future. Accordingly, the term of NYSEG's Supply Service Plan shall be three years commencing January 1, 2008 and ending December 31, 2010, subject to Section II.A.3 below.

2. During 2010, NYSEG will convene a meeting of any interested parties, including but not limited to the parties to this proceeding for the purpose of discussing and evaluating the continuation of NYSEG's Supply Service Plan beyond December 31, 2010. Commission approval must be obtained for continuation of NYSEG's Supply Service Plan beyond December 31, 2010.

3. Notwithstanding Sections II.A.1 and II.A.2 above, the three-year term shall be reopened if NYSEG files a major electric delivery rate case with the Commission or if the Commission, upon its own motion, initiates a review of NYSEG's electric rates. If NYSEG files a major electric delivery rate case with the Commission or if the Commission, upon its own motion, initiates a review of NYSEG's electric rates, NYSEG's Supply Service Plan will remain in effect unless modified as of the effective date of new rates resulting from any such proceeding.

B. Supply Service Options

1. The Signatory Parties concur that NYSEG should continue to offer a FPO similar to the product approved by the Commission in the NYSEG Rate Case Order because 20.3% of all customers have selected the FPO, justifying a longer transition. The Signatory Parties agree that the rates and earnings sharing mechanism described herein are just and reasonable. The Signatory Parties also agree that certain modifications to NYSEG's existing supply service, which are discussed below, will enhance customer choice and benefit competitive markets and, thus, are in the public interest.

Residential and Certain Small C&I Customers

2. Customers in SC Nos. 1, 5, 6, 8, 9, 12 and street lighting who do not choose to receive supply service from an ESCO through the ESCO Price Option ("EPO") will continue to have two NYSEG supply options: 1) DSO; and 2) FPO.

3. The method for setting the commodity portion of the DSO is identical to that approved by the Commission in the NYSEG Rate Case Order. The DSO will be the default supply option for those customers referenced in Section II.B.2 above who are not taking supply service with an ESCO and do not otherwise make an affirmative supply choice during an enrollment period and, therefore, remain with the Company for supply service.

4. The commodity portion of the FPO differs from the FPO approved by the Commission in the NYSEG Rate Case Order in that the value of two components to the rate is reset. In calculating the annual one-year fixed price for the FPO, the wholesale price will be multiplied by a conversion factor of 116.9%, and 6 mills per kWh will be added to the product. Consistent with the existing approved methodology, the commodity component of the FPO shall

be differentiated by rate class based on contribution to peak for installed capacity, relative differences in load shape for energy, and losses.

5. The FPO rate to be effective January 1, 2008 will be set on November 1, 2007 based on wholesale prices in the twenty (20) trading days prior to the final trading day in October 2007, according to the methodology approved by the Commission in the NYSEG Rate Case Order. In subsequent years, the FPO rate will be effective as of January 1st and will be set on the preceding November 1st, based on wholesale prices in the twenty trading days prior to the final trading day in October of each year. The rates will be set according to the methodology approved by the Commission in the NYSEG Rate Case Order, except as provided above.

Remaining Small C&I Customers

6. Customers in SC Nos. 2, 3, and 7 with less than 500 kW in peak demand for the calendar year 2008, less than 400 kW in peak demand for the calendar year 2009, and less than 300 kW in peak demand for the calendar year 2010 ("Remaining Small C&I Customers") who do not choose to receive supply service from an ESCO through the EPO will have three NYSEG supply options: 1) VPO; 2) FPO; and 3) voluntarily taking service under the Company's hourly pricing provisions. Customers in SC No. 11 will continue to have the choices as described in NYSEG's currently effective tariff.

7. Customers will not be included in the Remaining Small C&I Customer group if their billed demand meets or exceeds the above-referenced demand in any two of the previous twelve months; except that for purposes of 2008, customers will not be included in the Remaining Small C&I group if their billed demand meets or exceeds the above-referenced demand in any two months within any twelve-month period following the date of the Commission's order approving this Joint Petition.

8. The commodity portion of the VPO will be identical to the VPO approved by the Commission in the NYSEG Rate Case Order, including but not limited to the pricing methodology.

9. The VPO will be the default for the Remaining Small C&I Customers who are not taking supply service with an ESCO and who do not otherwise make an affirmative supply choice during an enrollment period and, therefore, remain with the Company for supply service.

10. The FPO for Remaining Small C&I Customers will be based on the same methodology as the FPO described in Sections II.B.4 and II.B.5 above.

Large C&I Customers

11. Customers with billed demand equal to or greater than 500 kW for the calendar year 2008, equal to or greater than 400 kW for the calendar year 2009, and equal to or greater than 300 kW for the calendar year 2010 ("Large C&I Customers") who do not choose to receive supply service from an ESCO will receive supply service from NYSEG under the Company's MHP program that is currently offered to customers with peak demands equal to or greater than 1,000 kW. Customers will be included in the Large C&I group if their billed demand meets or exceeds the above-referenced demand in any two of the previous twelve months; except that for purposes of 2008, customers will be included in the Large C&I group if their billed demand meets or exceeds the above-referenced demand in any two months within any twelve-month period following the date of the Commission's order approving of this Joint Petition.

12. Customers who are currently exempt from MHP pursuant to NYSEG's tariff Leaves 253 and 254 of PSC 120 – Electricity will continue to be exempt from the MHP supply service under NYSEG's Supply Service Plan.

13. The lowering of the MHP requirement threshold is consistent with the Commission's public policy directives and orders on MHP.

14. To the extent that NYSEG begins deployment of its Advanced Metering Infrastructure ("AMI") plan after approval by the Commission, customers for whom a new meter is installed as a result of the MHP service, outlined above, will not be required to pay an additional amount relating to purchase and installation of a new AMI meter. However, such customers will be subject to AMI charges regarding the non-meter related system costs.

C. Customer Choice and Collaborative

Enrollment Period

1. NYSEG will implement a two-month enrollment period from November 1 through December 31, 2007 that will allow customers, other than Large C&I Customers as defined above,² to choose one of the applicable NYSEG supply offerings or elect to take service from an ESCO effective January 1, 2008. Thereafter, NYSEG will hold a two-month enrollment period each November through December for the remainder of NYSEG's Supply Service Plan. The two-month enrollment period is identical to the enrollment period under NYSEG's existing program and its implementation will remain subject to the NYSEG Rate Case Order.

Customer Switching

2. After the enrollment period, customers may not switch between NYSEG's FPO and NYSEG's DSO/VPO rate. Customers may switch at any time from any NYSEG offering to an ESCO, subject to the Commission's Uniform Business Practices. Customers switching to any ESCO shall take service through the EPO. Any customer switching from an ESCO to NYSEG

² Large C&I Customers can choose between NYSEG MHP and ESCO service at any time.

after the enrollment period will not be able to switch to NYSEG's FPO; rather such customers will only be able to switch to the applicable NYSEG "default" price (i.e., DSO, VPO or MHP).

3. The switching rules are an enhancement to NYSEG's existing supply service because they provide customers with additional opportunities to switch to an ESCO thereby further supporting competitive markets.

EOSA

4. NYSEG will no longer offer the EOSA. Effective January 1, 2008, any remaining EOSA customers that did not otherwise make an affirmative choice during the November 2007 through December 2007 enrollment period will continue to take supply service with their then-current ESCO and be migrated to the EPO.

Price-To-Compare and ESCO Introduction Program

5. NYSEG will establish and display a "Price-to-Compare" on a cents per kWh basis on bills of customers who receive supply from NYSEG within a reasonable time frame. The "Price-to-Compare" shall reflect the sum of NYSEG charges that a customer avoids when it elects service from an ESCO. The "Price-to-Compare" will apply to all non-MHP customers that take service from NYSEG and will be based on the customer's current NYSEG supply option. Implementation of the "Price-to-Compare" will be developed in the collaborative discussed below.

6. The "Price-to-Compare" is an enhancement to NYSEG's existing customer choice program because it simplifies customers' comparisons of NYSEG and ESCO prices.

7. NYSEG will develop and implement a new "ESCO Introduction Program." The "ESCO Introduction Program" will target new non-MHP customers (i.e., residential and certain small C&I customers) that seek to initiate electric service (i.e., new service or a customer move).

The terms and conditions of the "ESCO Introduction Program" shall be determined pursuant to the collaborative discussed below. The "ESCO Introduction Program" will be open to all interested ESCOs. The cost of the "ESCO Introduction Program" and the cost of the Purchase of Receivables ("POR") will be funded by participating ESCOs. The administrative costs of all other customer choice provisions contained in this Joint Proposal will be funded and borne in their entirety by NYSEG.

8. The "ESCO Introduction Program" is an enhancement to NYSEG's existing customer choice program because it increases customer choice and enhances the ability of ESCOs to participate in the market.

9. NYSEG will initiate a collaborative to discuss the implementation of the "Price-to-Compare" and the "ESCO Introduction Program" referenced above. The collaborative will be initiated in September 2007, assuming Commission approval of this Joint Proposal in August 2007 or in the event the Commission does not approve this Joint Proposal in August then the month immediately following Commission approval of this Joint Proposal. NYSEG will notify all parties in this proceeding and Case 05-M-0858 of the collaborative.

10. If NYSEG and other parties agree in principle on the details of a "Price-to-Compare" and/or an "ESCO Introduction Program," a subsequent joint proposal(s) will be filed with the Commission for approval.

11. Assuming the "Price-to-Compare" and "ESCO Introduction Program" collaborative results in a joint proposal with respect to at least the "ESCO Introduction Program," NYSEG will request Commission approval to withdraw its pending ESCO Referral Program petition pending in Case 05-M-0858 and will file for approval of the "ESCO Introduction Program" to replace such pending ESCO Referral Program. NYSEG will also ask

for a waiver, if necessary, of any of the Commission's Uniform Business Practices. The Signatory Parties agree to support this approach.

12. NYSEG will work toward filing any joint proposal with respect to the "Price-to-Compare" and/or "ESCO Introduction Program" collaborative results within ninety days of the initiation of the collaborative and implementation of any such Commission-approved provisions for such program to occur as soon as practicable after January 1, 2008.

Other Customer Choice Provisions

13. NYSEG will meet with ESCOs twice per year for the duration of the NYSEG Supply Service Plan to discuss any retail access concerns. The Company agrees to hold additional meetings with ESCOs, as necessary, to discuss any retail access concerns.

14. NYSEG will continue to provide ESCOs a Company liaison.

15. NYSEG agrees to continue the Purchase of Receivables ("POR") program and, as of January 1, 2008, to fix the electric POR discount at the current rate of 1.15%, for the term of this Joint Proposal, as stated in NYSEG's October 31, 2006 letter to the Commission in Case 05-M-0453. Any modifications to the POR program and/or the POR discount shall be discussed as part of the meeting established pursuant to Section II.A.2. above.

16. The twice-a-year meetings with ESCOs and the fixed POR discount are enhancements to NYSEG's existing supply service because they will enhance the ability of ESCOs to participate in the market.

17. This Joint Proposal addresses certain of the issues raised in the Commission's Retail Access Order issued April 24, 2007 in Case 07-M-0458. NYSEG remains subject to future orders in that proceeding. NYSEG reserves its right, as part of Reply Comments in Case 07-M-0458, to notify the Commission of this Joint Proposal, request that the Commission recognize NYSEG's specific circumstances in light of the Joint Proposal, and request that the

Commission not take any action in Case 07-M-0458 that is inconsistent with this Joint Proposal. The Signatory Parties agree that they will not oppose any such filing by NYSEG. NYSEG also reserves its right to petition the Commission for a waiver of any requirement in an Order in Case 07-M-0458 that is inconsistent with this Joint Proposal. The Signatory Parties agree that they will not object to any such waiver request by NYSEG.

D. Earnings Sharing

1. The Signatory Parties agree that the changes to NYSEG's existing supply service set forth in this Joint Proposal warrant a different sharing mechanism with respect to supply service income than that approved in the NYSEG Rate Case Order.

2. NYSEG shall calculate pre-tax total supply service income for each year. NYSEG shall retain the first \$10 million of such pre-tax supply service income.

3. NYSEG shall share 85/15% (ratepayer/shareholder) any pre-tax total annual supply service income above \$10 million. NYSEG will absorb 100% of losses, if any, incurred as a result of the NYSEG Supply Service Plan.

4. NYSEG will accelerate the customer recovery of \$5 million of earnings sharing through the NBC. The allocation of \$5 million will be done in a class neutral manner in order to accelerate the benefits of NYSEG's Supply Service Plan. The first such allocation will occur through the NBC that will be calculated in November 2007 for 2008. The \$5 million to customers shall be subject to annual reconciliation up to a maximum of \$5 million. The Signatory Parties agree to revisit this provision if it causes undue variability in the year-to-year value of the NBC.

5. NYSEG will use the customer portion of any earnings sharing above \$5 million to offset any increase in the NBC that would otherwise occur as a result of the annual NBC

reconciliation process, discussed below, and any remaining customer share of earnings will be added to the Asset Sale Gain Account. Any credits associated with the earnings sharing mechanism shall be accomplished in a competitively neutral manner.

6. Upon Commission approval of this Joint Proposal, NYSEG will withdraw its March 16, 2007 Petition for Rehearing pending in Case 05-E-1222.

E. NBC

1. The customer's applicable NBC will be fixed at the same rate, whether they choose to take supply service from NYSEG or from an ESCO. The NBC will be forecasted and set each November 1 for the following calendar year. All items collected through the NBC will be symmetrically reconciled and trued-up annually in a competitively neutral manner, according to the sample calculation in NYSEG's Information Request Response No. NFSS-0019 which is attached hereto as Appendix A. The credits or charges related to the reconciliation will flow through the following period's fixed NBC.

2. A \$20 million estimate of transmission revenues was included in the delivery revenue requirements calculation in Case 05-E-1222. Any difference between the actual amount of transmission revenues and the \$20 million estimate will be captured by the NBC.

3. The NBC will also include the above or below-market portion of non-utility generator ("NUG") purchased power contracts, the above or below-market portion of the NMP2 purchased power contract, the market value of the Company's owned hydro facilities, Lost Revenue Recovery Mechanism ("LLRM") revenues, ancillary services, the New York Power Authority Transmission Access Charge ("NTAC"), and the cost to move power from Zone "C" to Zone "G" of the New York Independent System Operator for customers of the Company taking service east of the Total East transmission interface.

4. The NBC for stand-by customers will be updated on October 1, 2007, January 1, 2008 and each January 1st thereafter consistent with the other service classes. The Signatory Parties agree that this provision of the Joint Proposal addresses the Commission Order regarding stand-by service issued February 16, 2007 in Case 05-E-1222.

5. Ancillary service and NTAC costs recovered from ESCO customers will be reimbursed to ESCOs as described on Leaf 94 of the Company's PSC 120 – Electricity tariff.

6. If through future legislative or other governmental mandate NYSEG receives an allocation of NYPA hydro power during the term of NYSEG's Supply Service Plan, the above or below-market value of that power will be flowed through the NBC to those customers classes for which it is intended.

7. Customers who take service east of the Total East interface will continue to receive a credit to their NBC equal to the difference in wholesale price between Zone "C" and Zone "G" of the New York Independent System Operator.

F. Revenue Decoupling Mechanism

1. NYSEG will address a revenue decoupling mechanism ("RDM") as part of any major electric rate case filed by NYSEG, a Commission-initiated review of NYSEG's electric rates, or as otherwise ordered by the Commission.

2. NYSEG's RDM will address both delivery and commodity service; however, NYSEG will be afforded an opportunity to demonstrate why an RDM should not apply to a market-based fixed price supply service.

G. Hedges

1. Pursuant to Case 05-E-1222, NYSEG will continue to replace expiring hedges until implementation of the results of the collaborative in Phase I of Case 06-M-1017. NYSEG

will participate in the collaborative in Phase I of Case 06-M-1017 and will comply with the Commission-ordered results.

H. Other Provisions

1. NYSEG will file new tariff leaves within thirty days of the date of the Commission's order approving this Joint Proposal.
2. The Signatory Parties believe that the record in this proceeding fully supports and justifies Commission approval of this Joint Proposal. The Signatory Parties also believe that the record in Case 05-E-1222 supports and justifies Commission approval of this Joint Proposal.
3. Unless specifically modified herein, the provisions of the Orders in Case 05-E-1222 governing NYSEG's commodity service will remain in effect during the term of this Joint Proposal.
4. NYSEG will provide an annual report on its commodity services on April 1, 2008 through 2011, containing results and supporting data for the prior calendar year on:
 - a. the NBC true-up;
 - b. the earnings sharing mechanism, including the true-up of the \$5 million advanced to the NBC; and
 - c. customer selection of commodity options during the open enrollment period.

Rates

5. Nothing herein precludes NYSEG from filing an electric delivery rate case nor does it preclude the Commission from initiating a review of NYSEG's delivery rates upon its own motion or a petition or complaint filed by any party, including a Signatory Party. In addition, nothing herein precludes NYSEG from making a filing prior to January 1, 2011 for a

change in supply service rates to be effective January 1, 2011.

6. Changes to NYSEG's electric supply service rates during the NYSEG Supply Service Plan will not be permitted, except for (a) changes provided for in this Joint Proposal and (b) subject to Commission approval, changes as a result of the following circumstances:

a. If a circumstance occurs which in the judgment of the Commission so threatens NYSEG's economic viability or ability to maintain safe, reliable and adequate service as to warrant an exception to this undertaking, NYSEG will be permitted to file for a change in supply service rates at any time under such circumstance;

b. Nothing herein shall preclude NYSEG from petitioning the Commission for approval of new services or rate design or revenue allocation changes on an overall revenue neutral basis, including but not limited to the implementation of new service classifications and/or cancellation of existing service classifications; and

c. The Signatory Parties reserve the right to oppose or support any filing made by NYSEG pursuant to this Section II.H.6.

Binding Effect of this Joint Proposal

7. This Joint Proposal is made upon the express understanding that it constitutes a negotiated resolution of the issues in this proceeding. None of the Signatory Parties is deemed to have approved, agreed to, or consented to any principle, methodology or interpretation of law underlying or supposed to underlie any provision hereof.

8. It is understood that each provision of this Joint Proposal is in consideration and support of all of the other provisions of this Joint Proposal. Each Signatory Party to this Joint Proposal has expressly conditioned its support upon the approval and adoption of this Joint Proposal in its entirety by the Commission. If this Joint Proposal is materially modified by the

Commission, or if the Joint Proposal or the Commission order approving the Joint Proposal is materially modified by a court order which had become final and non-appealable, then each of the Signatory Parties reserves the right to withdraw its acceptance of this Joint Proposal by serving written notice on the Commission and the active parties to Case 07-E-0479 and to renegotiate and, if necessary, to litigate without prejudice any or all issues as to which such Signatory Party agreed in this Joint Proposal.

9. It is the intent of the Signatory Parties that the provisions of this Joint Proposal will apply to and be binding only with respect to the matters that are the subject of this Joint Proposal, and except as set forth below, no provision of this Joint Proposal, nor any methodology or principle utilized herein, nor any of the positions taken herein by any Signatory Party may be referred to, or cited or relied upon as precedent or deemed to be an admission in any other proceeding before the Commission, or any other regulatory agency or before any court of law for any purpose other than the disposition of matters expressly governed by this Joint Proposal.

10. The Signatory Parties recognize that certain provisions of this Joint Proposal contemplate actions to be taken in the future to effectuate fully this Joint Proposal. Accordingly, the Signatory Parties agree to cooperate with each other in good faith in taking such actions.

11. In the event of any disagreement over the interpretation of this Joint Proposal or implementation of any of the provisions of this Joint Proposal, which cannot be resolved informally among the Signatory Parties, such disagreement shall be resolved in the following manner: (a) the Signatory Parties shall promptly convene a conference and in good faith attempt to resolve any such disagreement; and (b) if any such disagreement cannot be resolved by the Signatory Parties, any Signatory Party may petition the Commission for resolution of the disputed matter.

12. This Joint Proposal contains the entire agreement of the Signatory Parties regarding the matters contained herein and supersedes and replaces any and all prior or contemporaneous written and verbal agreements or understandings.

Effect of Commission Approval

13. The Signatory Parties agree and request that the Commission find upon approving this Joint Proposal that it is in the public interest.

14. No provision of this Joint Proposal or the Commission's approval of this Joint Proposal will in any way abrogate or limit the Commission's statutory authority under the Public Service Law. The Signatory Parties recognize that any Commission approval of this Joint Proposal does not waive the Commission's ongoing rights and responsibilities to enforce its orders and to effectuate the goals expressed therein, nor the rights and responsibilities of the New York Department of Public Service Staff to conduct investigations or take other actions in furtherance of its duties and responsibilities.

Captions

15. All titles, subject headings, section titles and similar items herein are provided for the purpose of reference and convenience only and are not intended to affect the meaning, the content or the scope of this Joint Proposal.

Execution

16. This Joint Proposal may be executed in counterpart originals and will be binding upon each Signatory Party when its executed counterpart is filed with the Secretary to the Commission.

Reservation of Rights

17. Notwithstanding any provision contained herein, NYSEG reserves its right to challenge, through a request for waiver, petition for rehearing or judicial review, any Commission order, policy statement or regulation that is inconsistent with or otherwise impacts this Joint Proposal or NYSEG's Supply Service Plan.

AL-97617

Executed as of the ____ day of July, 2007.

New York State Electric & Gas Corporation

By: _____
James A. Lahtinen
Vice President – Rates and Regulatory
Economics

Executed as of the ____ day of July, 2007.

**Staff of the
New York State Department of Public Service**

By: _____
Leonard Van Ryn, Esq.
Assistant Counsel

Executed as of the ____ day of July, 2007.

New York State Consumer Protection Board

By: _____
David Prestemon, Esq.

Executed as of the ____ day of July, 2007.

Multiple Intervenors

By: _____
Michael B. Mager, Esq.

Executed as of the ____ day of July, 2007.

Constellation NewEnergy, Inc.
Constellation Energy Commodities Group, Inc.

By: _____
Kevin R. Brocks, Esq.

Executed as of the ____ day of July, 2007.

Direct Energy Services, LLC

By: _____
Chris Kallagher, Esq.
Director, Government & Regulatory Affairs

Executed as of the ____ day of July, 2007.

Energetix, Inc. and NYSEG Solutions, Inc.

By: _____
Andrew Gansberg, Esq.

Executed as of the ____ day of July, 2007.

Integrus Energy Services of New York, Inc.

By: _____
Jody M. Spaeth
Vice President

Executed as of the ____ day of July, 2007.

Strategic Energy, LLC

By: _____
Marc A. Hanks
Director of Market Development-Eastern Region

Executed as of the ____ day of July, 2007.

Nucor Steel Auburn, Inc.

By: _____
James W. Brew, Esq.
Counsel

SUBJECT: Filing by NEW YORK STATE ELECTRIC & GAS CORPORATION

Amendments to Schedule P.S.C. No. 120 – Electricity

First Revised Leaves Nos. 117.10, 117.16, 117.17, 117.18, 117.19, 117.20, 121.1, 148.1, 158.1, 198.2, 201.2, 202.1, 206.1, 215.1, 216.1, 217.1, 248.1, 249.1, 250.1, 251.1, 254.1, 254.3, 259.1, 270.1, 288.2

Second Revised Leaves Nos. 50, 58, 76, 117.6, 117.7, 117.8, 117.9, 117.11, 117.12, 117.13, 117.14, 117.15, 131.1, 132.1, 218.1, 287.1, 298.1

Third Revised Leaves Nos. 57, 74, 75, 118, 137, 138, 140, 150, 151, 165, 178, 179, 183, 227, 253, 254, 256, 267

Fourth Revised Leaves Nos. 59, 149, 154, 156, 159, 164, 176, 186, 198.1, 201.1, 204, 207, 213, 226, 232, 237, 252, 260, 271, 297, 299

Fifth Revised Leaves Nos. 2.1, 120, 122, 125, 128, 130, 132, 136, 141, 142, 147, 155, 168, 169, 173, 184, 185, 194, 195, 202, 203, 205, 212, 214, 219, 220, 233, 236, 247, 257, 258, 263, 268, 269, 296

Sixth Revised Leaves Nos. 119, 129, 170, 188, 193.4, 243

Seventh Revised Leaf No. 189

Eighth Revised Leaf No. 288.1

Ninth Revised Leaf No. 187

Thirteenth Revised Leaves Nos. 121, 124, 131, 139, 148, 157, 158, 166, 167, 174, 175, 198, 201, 206, 215, 216, 217, 218, 228, 229, 230, 231, 248, 249, 250, 251, 259, 262, 270, 298

Fourteenth Revised Leaf No. 160

Fifteenth Revised Leaf No. 288

Sixteenth Revised Leaves Nos. 287, 293

Twenty-Third Revised Leaf No. 289

TC Statement No. 43

SC Statement No. 01

Issued: April 5, 2007

Effective: January 1, 2008

Amendments to Schedule P.S.C. No. 121 – Electricity

Second Revised Leaf No. 57.1

Fourth Revised Leaves Nos. 17.1, 23, 54.1, 54.2, 54.3, 54.4, 54.5, 54.6

Fifth Revised Leaves Nos. 16, 18, 26, 29, 41, 42, 43, 44, 56, 57

Sixth Revised Leaves Nos. 17, 22.1, 22.2, 27, 28, 34.1, 34.2, 34.3, 35, 40, 46, 47, 49, 50, 51, 52, 53, 54, 55

Seventh Revised Leaves Nos. 32, 33, 48

Eighth Revised Leaves Nos. 14, 20, 22, 31, 34

Ninth Revised Leaf No. 21

Tenth Revised Leaves Nos. 19, 30, 45

TC Statement No. 43

SC Statement No. 01

Issued: April 5, 2007

Effective: January 1, 2008