NYSEG's and RG&E's transmission vegetation management programs will continue at the funding levels shown in Appendix I. A description of the ongoing electric distribution and transmission vegetation management programs and reporting requirements for NYSEG Electric and RG&E Electric is set forth in Appendix I.

IX. STORM COSTS

This Proposal reflects the recovery of deferred NYSEG Electric storm costs of approximately $371 million composed of unamortized and unrecovered regulatory assets remaining from prior rate plans and costs charged to the Major Storm Reserve during the 2020 Rate Plan as depicted on Appendix B, Schedule H. The remaining NYSEG super storm regulatory asset of $52.3 million and the non-super storm regulatory asset of $96.6 million from the 2020 Rate Plan are being amortized over seven years. The remaining NYSEG non-super storm regulatory asset of $34.4 million established prior to the 2020 Rate Plan is being amortized over ten years. The new non-super storm regulatory asset of $187.7 million is being amortized over ten years.

This Proposal reflects the recovery of deferred RG&E Electric storm costs of approximately $54.6 million composed of unamortized and unrecovered regulatory assets established prior to the 2020 Rate Plan and costs charged to the Major Storm Reserve during the 2020 Rate Plan as depicted on Appendix D, Schedule H. The remaining RG&E non-super storm regulatory asset of $19.6 million established prior to the 2020 Rate Plan is being amortized over two years. The new non-super storm regulatory asset of $35.0 million is being amortized over ten years.

The Major Storm definition and Major Storm Reserve Accounting procedures, including accounting for pre-staging costs, are set forth in Appendix H. This Proposal gradually increases the Companies' Major Storm rate allowances over the term of the Rate Plan to better align the

Companies' actual Major Storm costs with such rate allowances and to support the Companies' credit metrics. The Major Storm annual rate allowance for NYSEG Electric is approximately \$31.5 million in RY1, \$41.5 million in RY2, and \$46.5 million in RY3. The Major Storm annual rate allowance for RG&E Electric is approximately \$4.5 million in RY1, \$6.0 million in RY2, and \$7.6 million in RY3. NYSEG Electric and RG&E Electric will continue to employ reserve accounting for qualifying Major Storm costs as defined in Appendix H.

The Minor Storm amount included in rates for NYSEG Electric is \$4.9 million annually. The RG&E Electric annual Minor Storm amount included in rates is \$1.1 million. There is no deferral or reserve accounting for Minor Storm costs included in this Proposal.

X. SITE INVESTIGATION AND REMEDIATION

Under this Proposal, the Companies will continue their ongoing Site Investigation and Remediation (SIR) programs, which clean up and restore sites containing environmental contamination. The ongoing operation and maintenance ("O&M") expense is identified in Appendices B, C, D, and E. This Proposal reflects agreed upon adjustments to the timeline and revenue requirements related to RG&E's East and West Station sites. This adjustment results in a revenue requirement decrease for RG&E as set forth in Appendices D and E.

XI. ACCOUNTING AND TAX MATTERS

The Companies will continue to reflect certain accounting changes as set forth in Appendix J, including but not limited to capitalizations of certain payments made to third-party entities, consistent capitalization of computer software, recognition of regulatory assets and liabilities under International Financial Reporting Standards (IFRS) similar to those allowed under GAAP, and capitalization of Advanced Metering Infrastructure ("AMI") load side cable repairs. Also covered in Appendix J are various tax matters.[13]

XII. ELECTRIC RELIABILITY

This Proposal continues Electric Reliability Performance Measures for the Companies, including SAIFI, the Customer Average Interruption Duration Index (CAIDI) and the Distribution Line Inspection Program metric for Level II deficiencies (consistent with the safety orders issued in Case 04-M-0159). The specific metrics, targets, and associated NRAs, as well as the reporting requirements associated with NYSEG's and RG&E's Electric Reliability Performance Measures, are set forth in Appendix K.

NYSEG's SAIFI NRAs from 2021 and 2022 of approximately $14 million are being amortized over three years as a rate moderator.

XIII. GAS SAFETY

A. Gas Safety Performance Measures

This Proposal continues Gas Safety Performance Measures for NYSEG and RG&E. The specific metrics, targets, and associated NRAs and positive revenue adjustments ("PRAs"), as well as the reporting requirements associated with NYSEG's and RG&E's Gas Safety Performance Measures, are set forth in Appendix L.

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[13] On January 11, 2018, in Case 18-M-0013, the Commission initiated a third-party audit of the Companies' Power Tax and Unfunded Regulatory Asset balances. This audit is still ongoing. The Signatory Parties reserve all of their administrative and judicial rights to take and pursue their respective positions with respect to all issues, rulings, matters and decisions in Case 18-M-0013. Final Commission-ordered differences resulting from the Staff audit will be applied to the PowerTax regulatory asset or Unfunded regulatory asset and amortized over the remaining life.

B. First Responder Training

The Companies will continue to work with Staff, local fire departments, and emergency management organizations ("First Responders") to adopt the principles of the Pipeline Emergency Responders Initiative ("PERI").[14] The Companies also agree to continue conducting scenario and hands-on drill trainings for First Responders.

As part of their annual gas safety performance compliance filings described in Appendix L, the Companies will file with the Secretary to the Commission information regarding their First Responder Training efforts for the subject calendar year, including the dates, locations, and times of the drills and operational exercises, who was in attendance for each drill and operational exercise, what topics were reviewed, and any applicable recommendations.

C. Residential Methane Detection Program

The Companies will continue their Residential Methane Detection ("RMD") Program that distributes detectors to targeted customers (e.g., low income customers) and involves RMD-related gas safety outreach and education as set forth below.

1. Program Funding

The RMD Program will be funded by NRAs. If NRA-related regulatory liabilities are less than actual expenditures, the differences will be deferred and ultimately collected from customers.

2. Methane Detection Equipment

Based on research and reliability testing completed by the Gas Operations Technology group, the Companies plan to distribute industry accepted methane detectors such as: Universal Security Instruments, Inc. Model MCDN40010B Carbon Monoxide & Natural Gas Alarm, the

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[14] For a description of PERI, see https://www.phmsa.dot.gov/pipeline/peri/peri-faqs.

Kidde Model 900-0113 Carbon Monoxide and Natural Gas Alarm, and the First Alert GC01CNDS. Detectors distributed as a part of the Companies' RMD Program will target detection at a 10 percent Lower Explosive Limit. The Companies consider the Universal Security Instruments, Inc. model to be the primary detector targeted for distribution and reserve the right to substitute the Kidde and First Alert models based on commercial availability.

3. Methane Detector Distribution

The Companies will target initial RMD Program distribution to natural gas residential customers who have received Home Energy Assistance Program ("HEAP") grants. Of the total natural gas residential customers, approximately 38,000 NYSEG customers and 40,000 RG&E customers receive HEAP benefits. In each successive year, after these HEAP customers have received a detector, the Companies plan to provide additional detectors to customers using a risk-based approach which could incorporate gas leakage trends and additional identification of non-HEAP low-income customers. The Companies will evaluate expenses, methods, and options to incorporate detector distribution with the implementation of new meters and modules being installed as part of the AMI project. The Companies will work in consultation with Gas Safety Staff on any RMD Program changes.

4. Program Review

The Companies will submit annual RMD Program status/results to the Secretary to the Commission within 90 days of the end of each Rate Year. The Companies' annual report will include the following: (1) the number of detectors installed in the Rate Year; (2) the total number of detectors installed to date; (3) the costs of installation in the Rate Year; (4) the total cost of installation to date; (5) reconciliation of incurred NRAs with that of RMD Program costs; (6) a review of the effectiveness of the RMD Program in the subject Rate Year; (7) the number of alarms received in the Rate Year; and (8) the actions taken in response to each of the alarms received. Prior to making any potential modifications to the RMD Program, the Companies will consult with Gas Safety Staff and other interested parties. Any agreed upon modifications will be included in the annual report for the subject Rate Year.

D. Inside Service Line Inspections

To reduce costs, the Companies agree to coordinate inside service line inspections with other activities, including but not limited to, meter replacements, complaint investigations, and the removal of inactive meters. The Companies also agree to continue to follow the Inside Service Inspection Letter Process contained in Appendix Y, which sets forth the process for the automatic imposition of a $100 customer surcharge for failure to grant the Companies access to perform inside service line inspections. As set forth in Appendix Y, the automatic $100 customer surcharge would be applied after multiple attempts to communicate with the customer to make and keep an inspection appointment. The amounts collected under this provision will be used to offset the cost of the inside service line inspections. Prior to making any potential modifications to the process set forth in Appendix Y, the Companies will consult with Gas Safety Staff.

E. Outside Meters and Meter Relocation Pilot Program

The Companies will continue to implement their longstanding practice of relocating meters from inside to outside of a building when performing service line replacements (whether by insertion or direct bury), service line repairs and transfers, new service installations, and where the relocation can feasibly be performed. The Companies agree to provide Staff meter relocation statistics upon request.

The Companies will also develop and implement a Meter Relocation Pilot Program, through which the Companies would move gas meters and service regulators from the inside of a customer's premises to the outside of a customer's premises. Costs related to the Meter Relocation Pilot Program will be deferred for future recovery from customers. The costs eligible for deferral under this program will be capped at $450,000 for RY2, $900,000 for RY3, and $675,000 for subsequent rate years at NYSEG and $550,000 for RY2, $1,100,000 for RY3, and $825,000 for subsequent rate years at RG&E. The Companies will be allowed to continue to defer costs associated with this program beyond the end of RY3 to the extent the cumulative deferral does not exceed the sum of each applicable Rate Year's program cap.

Within six months of the beginning of RY1, the Companies will meet with Staff and other interested parties to discuss the specifics of the implementation plan, including the planning and identification of meters for relocation and the proposed budget for the pilot. The proposed budget should include the estimated number of meters identified for relocation for each Rate Year, as well as the estimated cost per relocation. The Companies will include details justifying the estimated cost per relocation. Within nine months of the beginning of RY1, the Companies will make an informational filing of the finalized implementation plan, which will include proposed budgets for each Rate Year, with the Secretary to the Commission.

Starting with RY2, the Companies will file an annual report on the Meter Relocation Pilot Program no later than 90 days following the end of each Rate Year with the Secretary to the Commission. The Companies' annual report will include: (1) the number of meters relocated as part of the pilot in the Rate Year; (2) the total number of meters relocated as part of the pilot to date; (3) the costs for relocation as part of the pilot in the Rate Year; (4) the costs of relocation as part of the pilot to date; and (5) an effectiveness review of the pilot in the Rate Year. Prior to making any potential modifications to the Meter Relocation Pilot Program, the Companies will consult with Gas Safety Staff and other interested parties. Any agreed upon modifications will be included in the annual report for the subject Rate Year.

F. Inactive Accounts

The Companies agree that metered gas for inactive accounts will be removed from the calculation of Lost and Unaccounted For Gas for those inactive accounts with an installed and operating AMI meter and for which the Companies have been able to obtain relevant usage data other than through an installed and operating AMI meter.

G. Pipeline Safety Management Systems

To the extent the Companies incur costs to implement their Pipeline Safety Management Systems Implementation Plan and related improvement actions, such costs will be deferred for future recovery.

XIV. GAS MATTERS

In response to New York's actions to promote clean energy along with the focus on the nexus between energy and the environment, the Companies agree to a number of commitments regarding the Companies' natural gas businesses related to climate change. The commitments are set forth in Appendix M and continue the objective to achieve a net zero increase in gas use and a continued emphasis on Non-Pipes Alternatives ("NPA") consistent with Appendix HH.

XV. SALES AND USE TAX AUDITS

In the context of the overall Rate Plan, and to fully resolve NYSEG's Sales and Use Tax Audit covering the period of March 1, 2014, through May 31, 2020, NYSEG will remove approximately $6.0 million in sales tax from its related regulatory asset balances and maintain and recover its adjusted residual deferred regulatory assets of $9.4 million at NYSEG Electric and $1.2 million at NYSEG Gas. These adjustments are reflected in Appendices B and C.

In addition, with regard to the current or any future audit completed in this Rate Plan of sales and use tax at RG&E, the Company agrees that sales tax amounts that are the result of under-collected sales tax and required to be remitted to New York State, which should have been collected by RG&E from specific customers as a result of audit, will not be deferred for future collection from all customers.

The Companies will comply with 16 NYCRR § 89.3 for future audit results that reach guideline thresholds and require reporting to the Commission. Furthermore, the Companies can hire consultants to support reverse audits or other engagements with the goal of accurately reflecting amounts owed by the Companies and their customers. The portion of a refund attributable to capital expenditures will be credited to rate base. The portion of a sales and use tax refund attributable to O&M expense will be deferred by the Companies as a regulatory liability for the benefit of customers until final disposition is determined by the Commission.

XVI. CUSTOMER SERVICE

The customer service provisions are set forth in Appendix P and will be in effect for the term of the Rate Plan and thereafter unless and until changed by the Commission. The following provisions identify key components of the Companies' customer service programs.

A. Customer Service Performance Indicator Metrics and Targets

The specific service quality metrics, targets, and NRAs for NYSEG and RG&E are set forth in Appendix P. The metrics will be in effect beginning with calendar year 2023. The measurement of results for 2023 will be split into two time periods: January – April 2023 (stub period) and May – December 2023 (2023 post-stub period) as shown in Appendix P. Specific NRAs will be assigned to each period as detailed in Appendix P.

The 2020 Rate Plan included customer service metrics based on the Companies' annual Customer Service Performance Indicators ("CSPI") reports: (1) PSC Complaint Rate; (2) Customer Satisfaction Survey; (3) Calls Answered in 30 Seconds; and (4) Percent of Estimated Bills.

In 2020, the Companies did not meet the targets for Percent of Estimated Bills. On January 29, 2021, the Companies filed a petition in Cases 15-E-0283 et al., requesting a waiver of the associated $1.4 million (NYSEG) and $1.8 million (RG&E) NRAs. In conjunction with the request to waive NRAs for 2020, the Companies also agreed to forego PRAs of $855,000 (NYSEG) and $560,000 (RG&E) that were earned based on results related to Uncollectibles, Terminations and Arrears. In its Order Granting Petition to Waive Certain Customer Service Revenue Adjustments, issued August 20, 2021, the Commission approved the Companies' waiver request.

In 2021, the Companies again did not meet the targets for Percent of Estimated Bills due to the impacts of the pandemic and deferred $750,000 (NYSEG) and $900,000 (RG&E) in regulatory liabilities for associated NRAs. By letter dated January 28, 2022, the Companies filed a petition in Cases 19-E-0379 et al. requesting a waiver of the associated NRAs. This request remains pending with the Commission.

In 2022, the Companies did not meet the expected levels of performance for Percent of Estimated Bills, Calls Answered in 30 Seconds, PSC Complaint Rate, and Customer Satisfaction Survey. Based on these results the Companies incurred NRAs in the amount of $10.12 million (NYSEG) and $6.8 million (RG&E). On February 7, 2023, the Companies filed a petition requesting a waiver of the 2022 NRAs. This request remains pending with the Commission.

Upon issuance of a final Commission Order approving the terms of this Joint Proposal, the Companies agree to withdraw the above-identified pending petitions for 2021 and 2022 customer service performance. The deferred regulatory liabilities for 2021 NRAs ($1.65 million) and for 2022 NRAs ($16.92 million) will be used for rate moderation during the term of this agreement. The Signatory Parties agree that these customer service NRAs, which have been deferred by the Companies, will be used in RY1, RY2, and RY3 for the benefit of customers as shown in Appendix AA (the "NRA – Customer Service Quality Metrics – New Amortization" line items).

1. <u>PSC Complaints</u>

Target levels of performance and implementation of the metric will be as indicated in Appendix P. As part of this agreement, the Companies agree to assemble an internal team of resources to address backlogged Quick Resolution System and Standard Resolution System ("QRS/SRS") cases. The Companies will also work with existing customer service vendors to augment staffing to achieve the target level of performance at one complaint per 100,000 customers. Any incremental expense associated with third-party vendors related to resolving the complaint backlog will be tracked by the Companies and borne by shareholders. Details of this task force are contained in Appendix P.

2. Customer Satisfaction Survey

Target levels of performance and implementation of the metric will be as indicated in Appendix P. Satisfaction results will be determined through the results of surveys performed through both phone calls and emails. Reporting on both phone call and email results will be provided.

3. Percent of Calls Answered in 30 Seconds

Target levels of performance and implementation of the metric will be as indicated in Appendix P.

4. Percent of Estimated Bills

Target levels of performance and implementation of the metric will be as indicated in Appendix P. The Companies will achieve six out of 12 months of actual meter reads (except in instances where the Companies are unable to obtain such actual meter reads due to factors beyond the Companies' control, including, but not limited to, meters that are inaccessible due to access or safety issues, travel bans declared by a relevant governmental authority impacting the ability to travel,[15] or major health outbreaks such as a pandemic) in the 12 consecutive month period beginning three months after the Commission issues an Order approving this Joint Proposal. The Companies will continue to comply with the requirements contained in 16 NYCRR § 13.8.

The Companies agree to continue the practice of leaving a door hanger at the customer premise when a meter is inaccessible. The door hanger will advise the customer that the Companies require an actual meter reading so that the customer can receive a non-estimated bill

[15] This exclusion will not apply to meter readers who are unavailable to read the meters because of being deployed on storm response, but rather is intended to apply to emergencies where travel in the region is deemed hazardous, such as snow and ice conditions.

and how the customer can provide a customer reading, in accordance with the Companies' tariffs and procedures.

In addition, the Companies shall conduct an ongoing automated outbound call campaign and an email or text campaign (if the Company has the requisite individual customer consent to use email and/or text) to inform customers for which a bi-monthly meter read was not achieved, that a meter reading attempt was made and was unsuccessful. These campaigns will inform the customer of how they can provide a customer reading, in accordance with the Companies' tariffs and procedures. For each of these outreach campaigns, the Companies will file the estimated costs with the Secretary to the Commission for review by Staff and interested parties within 90 days of a final Commission Order in these proceedings. The Companies will be authorized to defer costs associated with this additional outreach, up to $175,000 total for the initial implementation, allocated 63 percent to NYSEG and 37 percent to RG&E, and up to $15,000 for ongoing communications for each Rate Year, allocated 50 percent to NYSEG and 50 percent to RG&E.

The Companies will file with the Secretary to the Commission a detailed annual report on these outreach campaigns within three months of the close of each calendar year during the term of this Proposal. Appendix P includes details concerning this annual report.

When calculating the monthly result for Percent of Estimated Bills, the inaccessible meters may be excluded if:

(a) The Companies are following no access procedures (as evidenced by quarterly reports showing volumes of bill messages and letters sent for no access to be filed with the Secretary to the Commission); and

(b) The Companies will continue to waive any applicable no access fee as appropriate.

The Companies will provide reporting related to Percent of Estimated Bills as described in Appendix P.

B. Negative Revenue Adjustments

Appendix P shows the specific NRAs for each Company and each metric. Any NRAs incurred will accrue interest at a rate, as outlined in Section XXVIII(W) of this Proposal, and interest will be applied from the date the NRA is incurred until disposed of by the Commission. The calculation and level of NRAs will be converted from fixed dollars to basis points based on performance tiers. The doubling provision will apply as described in Appendix P.

If either Company's performance in May 2023 – December 2023 and calendar year 2024 for a metric meets the target level of performance, the NRA level for the applicable metric in 2025 will be reduced for the various tiers as shown in the tables in Appendix P with a maximum NRA of 15 basis points.

C. Community Distributed Generation

NYSEG and RG&E agree that, beginning 90 days after the date of a final Commission Order in these proceedings, all Community Distributed Generation ("CDG")/value stack customers who have not received a revised/corrected bill with the correct credit amount within 45 days of the bill issuance date, shall receive an additional bill credit of $10 per month for each month in excess of the initial 45-day period that the CDG/value stack bill credits are applied and the bills issued (the "Monthly Credit"). The Monthly Credits will be borne using shareholder funds and will not replace or offset the CDG/value stack credits that customers are entitled to.[16] Customers who have still not received CDG/value stack bill credits on their bills for at least four months as of the date of issuance of a final Order in these proceedings, or who have not received the correct amount of the CDG/value stack credits will be eligible for the Monthly Credit. The Companies will provide reporting on CDG/value stack as outlined under Section XVI.D and detailed in Appendix P.

If the Companies can demonstrate that the billing delays or inaccuracy referenced above result from delays to correct bills or bills showing the incorrect credit(s) attributed to the CDG Host not providing the Companies with the most current or correct subscriber list and/or allocations, the Companies will not be required to provide the above Monthly Credits.

The Companies will create a bill message informing customers that they are eligible for the Monthly Credit if the customer does not receive their correct CDG/value stack bill within 45 days of the bill issuance period. This bill message will be on or included with each bill until the correct and updated CDG/value stack bills are provided.

In the event the Commission provides for metrics and/or resultant NRAs related to CDG billing in Case 19-M-0463, Case 15-E-0082, or Case 14-M-0224, those metrics and/or resultant NRAs will supersede the requirements of this section.

D. Reporting Requirements

Each Company will submit the monthly results of its CSPI in compliance with the Commission's Order Adopting Revisions to Customer Service Reporting Metrics, issued August 4, 2017, in Case 15-M-0566. A final annual report will be submitted to the Secretary to the

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16 The cost of the Monthly Credits will not be recovered from customers via reconciliation, the revenue decoupling mechanism, deferral, surcharge, or other mechanism collecting the funds from customers.

Commission for each calendar year under the term of this Proposal within 30 days of the end of the calendar year. The final annual report will also state whether a revenue adjustment is applicable, and, if so, the amount of the revenue adjustment. The Companies will provide supporting workpapers to Staff related to reported performance, upon request, after the final annual report is submitted.

Additional customer service reporting requirements are outlined in Appendix P. A listing of these reports is below.

1. PSC Complaint Rate

The Companies will submit a monthly report to show the progress toward reducing the backlog of QRS/SRS cases. This reporting will take place until the Companies have maintained the target level of performance for a minimum of six months. Details of the items to be contained in this monthly report are contained in Appendix P.

2. Percent of Calls Answered in 30 Seconds

In conjunction with the annual CSPI report, the Companies agree to provide additional detailed information related to customer calls. The details of this reporting requirement are contained in Appendix P.

3. Customer Satisfaction Survey

In conjunction with the monthly filing of the CSPI reports, the Companies will include separately the results of the phone survey and an email survey. Final annual results will be a blended result that consists of the non-weighted average annual performance of the email and telephone surveys. The details of this reporting requirement are contained in Appendix P.

4. Percent of Estimated Bills

The Companies will provide a detailed annual report, within three months of the close of the calendar year, on estimated bill outreach campaigns related to meter reading and access. In conjunction with the annual outreach campaign report, the Companies will include the additional detail outlined in Appendix P.

5. CDG Billing

Within one month of the close of each calendar year, the Companies will file an annual report with the Secretary to the Commission detailing the costs for each Company to provide CDG manual billing and automation. Within three months of the close of each calendar year under this Joint Proposal, the Companies will file an annual report with the Secretary to the Commission with additional CDG detail as outlined in Appendix P.

E. Missed Appointments

The Companies agree to continue the practice of providing a credit to a residential customer when an appointment is missed. In the event the Companies miss a scheduled appointment with a residential customer, the Companies will provide a credit of $35.00 to such customer. The Companies will include in their respective annual CSPI reports the total number of credits provided in the calendar year and the total dollar amount of the credits given to residential customers. The Companies will file with the Department of Public Service Records Access Officer on a confidential basis, a list of the customers who received a credit, total number of all missed appointments, and information on any customers who qualified but did not receive a credit for identified reasons, in the information reported. The Companies will also provide supporting workpapers to Staff related to reported performance, upon request, after the final report is submitted.

F. Uncollectibles/Terminations/Arrears Incentive Mechanism

The 2020 Rate Plan established an Uncollectibles/Terminations/Arrears Incentive Mechanism, which allows the Companies to earn PRAs if the results for all three metrics (i.e., uncollectibles, terminations, and arrears) are below certain targets. The Signatory Parties agree that the Companies will not be eligible for an Uncollectibles/Terminations/Arrears incentive in RY1, RY2, or RY3. In the event the Companies do not file a new rate case prior to January 1, 2026, the Companies will convene a stakeholder collaborative in the first quarter of 2026 to set the applicable targets for the Uncollectibles/Terminations/Arrears Incentive Mechanism. Within 30 days of the end of such collaborative process, the Companies will file with the Secretary to the Commission the results of the collaborative, including the applicable targets for the Uncollectibles/Terminations/Arrears Incentive Mechanism to be applied in 2027, if such targets are agreed upon. The Signatory Parties agree that the Companies will be eligible to earn PRAs under the Uncollectibles/Terminations/Arrears Incentive Mechanism beginning in 2027 based on the targets established during the collaborative.

G. Auto-Enrollment in Outage Alerts

Costs associated with providing the critical service of outage alerts to customers are included in the revenue requirements calculation. In the event the Companies propose any additional changes to the program during the term of the Joint Proposal, the Companies will submit a written informational filing to the Secretary to the Commission in advance of such changes. In the event that an emergency within the program arises (such as a major issue with the service provider (e.g., loss of service or a data breach) impacting the ability to provide alerts to customers as needed), the Companies may retroactively file this information document to supplement potential modification and direction from Staff.

H. Protections During Periods of Extreme Cold and Heat

The Companies will implement the following cold weather moratorium commitments and heat provisions.

1. Cold Weather Protections

NYSEG and RG&E will continue to provide enhanced winter protections for residential customers during the cold weather period of November 1 through April 15 ("Cold Weather Period"), as defined by the Home Energy Fair Practices Act (HEFPA). These protections include:

(a) The Companies will provide the customer with continued or restored service regardless of the amount due and/or the customer's payment status when a HEAP payment has been accepted by the Companies during the Cold Weather Period. This excludes "Heat Included" benefits for households that pay for heat as a portion of their rental cost as explained in the Office of Temporary and Disability Assistance (OTDA) HEAP information outline;

(b) During the Cold Weather Period, the Companies will consider any Regular and Emergency HEAP payment as entitling the applicant to a fair and reasonable Deferred Payment Agreement ("DPA") regardless of any previous DPA or e-DPA defaults;

(c) The Companies will refrain from scheduling residential service terminations in a geographic operating region on days when the wind chill values as shown on www.weather.gov are at or below freezing temperatures (32 degrees) in that geographic operating region; and

(d) NYSEG and RG&E will continue their voluntary moratorium on winter terminations for customers whose accounts are coded elderly, blind or disabled.

2. Extreme Heat Protections

NYSEG and RG&E will suspend residential terminations in a geographic operating region on days when temperatures are forecast at or above 85 degrees in that geographic operating region. On any day when the Companies are performing disconnects for non-payment, they will check the forecast each morning using the forecasts provided by the United States National Weather Service.

I. Domestic Violence Training

The Companies will develop training materials, internal policy documents, and other relevant communications pertaining to situations in which a customer indicates that they have been a victim of domestic violence. The Companies will provide guidance, instruction, and training to Company personnel – in particular, their customer service representatives – pertaining to situations in which customers indicate that they have been the victims of domestic violence.

J. Language Access

The Companies will provide the same built-in Google Translate options for customers accessing all of their website content as they do for their "Important Safety Links" natural gas safety webpages. The Companies will monitor trends in the languages accessed by customers and will include information on those trends in the Companies' next rate case filing. In addition, the Companies will provide a notation on documents that are professionally translated (e.g., not translated through Google Translate) so that customers are aware of that status.

K. Energy Manager

The Companies will implement an Energy Manager platform concurrent with the deployment of smart meters over the term of the Rate Plan. This online platform offers customers: (1) data related to energy costs and usage and a forecast feature; (2) actions and challenges customers can take to save energy; (3) home and business profiles, which include usage reports and similar home comparisons; (4) near real-time interval data and rate adviser features; and (5) alerts related to high usage and bills. Costs associated with the Energy Manager platform are included in the revenue requirement for this Joint Proposal in Appendices B, C, D, and E.

L. Senior Study

The Companies agree to implement the following actions that were recommended as a result of a Senior Study that took place in accordance with the Joint Proposal approved in Cases 19-E-0378 et al.:

1. Increase Marketing and Communications for the Low-Income Home Energy Assistance Program ("LIHEAP")

Less than 10 percent of all survey respondents reported using LIHEAP. The frequency of use was particularly low in RG&E's service territory, despite over 10 percent of these customers reporting an annual household income of less than $25,000. The Companies will continue outreach on this program and partner with organizations that service seniors (such as the New York State Office for the Aging and AARP) to identify opportunities to better reach this demographic.

2. Communicate Programs and Services Through Digital and Traditional Means

Despite survey participants being age 55 or older, the strong majority indicated a preference for email and text messages for information on programs and services from the Companies. It was noted that one-fifth of customers still prefer bill inserts and prefer to ask questions through web and phone channels. Indicating a mix of digital and traditional channels would reach the greatest number of customers in this demographic. The Companies will modify outreach to target email and text messages regarding programs available for seniors.

3. Collaboration with Age 55+ Groups

The majority of customers reported interest in the Companies working with various age-specific groups in order to offer efficiency rebates, programs, and services. Within 60 days of a final Commission Order in these cases, the Companies will have an initial meeting with representatives from AARP and the New York State Office for the Aging to begin to identify opportunities for improvement in this area.

XVII. ECONOMIC DEVELOPMENT

The Companies have discontinued their gas economic development programs and there will be no gas rate allowance for such programs under the Joint Proposal. The Companies will use existing gas economic development reserve funds as a rate moderator by amortizing them to customers over the course of the Rate Plan as shown in Schedules H of Appendices C and E.

The Companies retain under the Joint Proposal a set of electric economic development programs with electric rate allowances of $4.0 million at each Company, for each Rate Year. A listing of these programs is provided in Appendix V. Each Company shall reconcile actual expenditures to the rate allowance for Economic Development as included in Appendix T. The Companies will use existing electric economic development reserve funds as a rate moderator by amortizing them to customers over the course of the Rate Plan as shown in Schedules H of Appendices B and D.

The Companies will submit annual economic development spending reports by March 31 of each year. The annual economic development report will set forth any minor adjustments to economic development program grants (less than 25 percent of the current grant amount) for Staff's review and approval. Larger adjustments to economic development program grants must be approved by the Commission.

The Signatory Parties agree that RG&E is permitted to provide $1 million in economic development funding from the new economic development reserve mechanism in support of the ROC the Riverway Charles Carroll Plaza – State Street Multimodal Gateway project for development of a fully accessible multi-modal connection that eliminates stairs and walls, subject to the work on the ROC the Riverway project commencing during the Rate Plan. The annual economic development report will have a separate section addressing ROC the Riverway project activity, including the starting balance for project funds, justification for the spending, and demonstration of the ROC the Riverway project's benefits (e.g., figures related to jobs the project retained, and spending in the area that the project is expected to stimulate).

XVIII. ENERGY AFFORDABILITY PROGRAM

This Rate Plan continues Energy Affordability Programs for NYSEG and RG&E which are more fully described in Appendix P. The Signatory Parties agree that the Companies' Arrears Forgiveness Program will be phased out over the term of the Rate Plan. Beginning 30 days after a final Commission Order in these cases, the Companies will discontinue new enrollments in their Arrears Forgiveness Program, and the program will be phased out gradually as existing customers complete, default, or voluntarily remove themselves from the program. Existing Arrears Forgiveness Program customers will be grandfathered at current levels.

The Companies will continue their existing enrollment procedure for HEAP recipients whereby the Companies enroll a customer when they receive payment associated with a HEAP grant. All HEAP recipients will be eligible for the Energy Affordability Programs at NYSEG and RG&E. Additionally, self-enrollment in the Companies' Energy Affordability Programs will be expanded to include any customer who is denied a HEAP grant, but who can provide confirmation that he or she is HEAP-eligible through a denial letter.

Appendix P provides additional detail concerning Energy Affordability Programs that the Companies will provide during the term of this Proposal. The annual budget levels for the Companies' respective Energy Affordability Programs are shown in Appendix P. The Companies will adhere to the two percent total revenue budget cap as set forth in the Commission's Order Adopting Energy Affordability Policy Modifications and Directing Utility Filings issued on August 12, 2021 in Cases 14-M-0565, et al.

Eligible customers will receive the discounts on their monthly bill in the amounts shown in Appendix P. The monthly bill discount reduction amounts will be broken into four tiers as shown in Appendix P.

All customers enrolled in an Energy Affordability Program will be referred to the New York State Energy Research and Development Authority's ("NYSERDA") Empower program for EE and/or budget counseling or similar program.

The Companies will continue to actively participate in the EAP Working Group meetings and other collaboratives convened in Case 14-M-0565, Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers.

A. Energy Affordability Program Outreach

The Companies will file and implement outreach plans to expand Energy Affordability Program enrollment, as required in the Commission's Order Authorizing Phase 2 Arrears Reduction Program issued January 19, 2023, ("EAP Arrears Phase 2 Order") and January 31, 2023, (Erratum Notice) in Cases 14-M-0565 and 20-M-0266. NYSEG and RG&E's Energy Affordability Program outreach plan will, at a minimum, include the following: (1) Outbound Calling Campaigns; (2) Bill Messages; (3) EnergyLines Bill Inserts; (4) Website Postings; (5) E-mails; and (6) Interactive Voice Response messaging. The Companies will also expand community and agency outreach intended to ensure new groups of vulnerable populations are aware of internal and external assistance programs and payment options. To that end, the Companies will analyze Energy Affordability Program participation by county in relation to available census information and perform outreach in communities with lower-than-expected Energy Affordability Program enrollment. The Companies will also promote their Energy Affordability Programs through the following municipal outreach activities: (1) utilize outreach managers to provide Energy Affordability Program information to municipal contacts; (2) hold "pop-up" customer service events in collaboration with municipal partners; and (3) RG&E will coordinate with the City of Rochester to have Consumer Advocate representation at "Community Total Health and Wellness Initiative" Fairs.

B. Energy Affordability Program Reporting

The Companies will file reports with the Secretary to the Commission on the Energy Affordability Program components as outlined in Appendix P and required by the Commission's EAP Arrears Phase 2 Order.

XIX. INNOVATION / SMART GRID / REV INCREMENTAL COSTS

A. REV Incremental Costs

The Companies will include Reforming the Energy Vision ("REV") and REV-related incremental costs, including regulatory, consulting, and legal costs, in the RAM described in Section XXIV and Appendix W. To the extent that alternative cost recovery mechanisms are in place or are put in place for specific REV and REV-related incremental costs, the Companies will not include those REV and REV-related incremental costs in the RAM.

B. Energy Storage

1. Energy Storage Procurements

The Companies will defer the revenue requirement impact of costs related to the bulk energy storage procurement required by the Commission's Order Establishing Energy Storage Goal and Deployment Policy in Case 18-E-0130. The Companies will establish an intangible capital asset for certain costs associated with a specific awarded project (e.g. construction labor). The Companies will treat any costs not associated with a specific awarded project as O&M expense.

2. New Energy Storage Projects

The Companies have multiple mechanisms in place through which third-party ownership of DERs - including energy storage - may cost-effectively be proposed in New York State including bulk energy storage procurements,[17] the newly proposed Index Storage Credit mechanism,[18] and the current Non-Wires Alternatives ("NWA") process. The Companies provide these opportunities in accordance with the required, specified statewide processes for utility and third-party owned competitive energy storage to support achievement of the state's energy and climate goals.

For NYSEG's Stephentown and Wales Center energy storage projects, the Companies will take the steps set forth in Appendix N to determine if third-party ownership for these projects is possible.

C. Electric Vehicles

Consistent with the Commission's Orders and the Companies' implementation plans filed in Case 18-E-0138 (the "EV Proceeding"), the Companies will facilitate the adoption of EVs through the programs that have been or will be authorized by the Commission in the EV Proceeding.[19] The Companies will recover EV-related costs consistent with the Commission's Orders issued in the EV Proceeding. In addition, the Companies will spend up to $500,000 annually ($350,000 at NYSEG and $150,000 at RG&E) on EV-related studies and working groups to forecast, assess electric system impacts, and prepare for increased EV adoption. Incremental costs associated with the implementation of Commission-ordered EV programs for

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17 Case 18-E-0130 – In the Matter of Energy Storage Deployment Program, Order Establishing Energy Storage Goal and Deployment Policy (Dec. 13, 2018).

18 Case 18-E-0130, New York's 6 GW Energy Storage Roadmap: Policy Options for Continued Growth in Energy Storage (Dec. 28, 2022).

19 Case 18-E-0138 – Proceeding on Motion of the Commission Regarding Electric Vehicle Supply Equipment and Infrastructure, Order Approving Modifications to Utility Managed Charging Programs (Feb. 16, 2023); Case 18-E-0138, Order Approving Managed Charging Programs with Modifications (July 14, 2022); Case 18-E-0138, Order Establishing Electric Vehicle Infrastructure Make-Ready Program and Other Programs (July 16, 2020).

which recovery is not provided for in this Proposal or in the respective Commission Orders will be deferred and collected under the RAM.

D. Planned Incremental Resources

The table below shows planned incremental resources in the areas of Innovation / Smart Grid / REV as well as EE and NWA and NPA.

Project / Program Name[1]	FTE Additions	Total FTEs [2]
	RY 1 – RY 3	RY 3
Energy Storage Procurements, beneficial electrification planning & development, DSIP roadmaps, DER integration and innovation pilots, university partnerships, NY IEDR implementation, data analytics and clean energy transformation load research	7	16.5
EV Program Implementation	4	9
Energy Efficiency and Demand Response Programs	4	24
NWA and NPA	1	7

1 - FTEs associated with REV-related activities go beyond the Initiatives covered in the Companies' Innovation, Smart Grids, and EV panel testimony and may also be part of the Energy Efficiency and NWA / NPA direct testimony. Therefore the Company has included FTE counts from multiple projects/programs in the table above, for informational purposes only.
2 - Includes allocated FTE resources from ASC that are directly working on the above projects/programs.

XX. NON-WIRES ALTERNATIVES AND NON-PIPES ALTERNATIVES

A. General

The Companies are committed to seeking NWA and NPA solutions to electric or gas capital investments where those solutions are appropriate and cost-effective. The Companies' approach for NWAs and NPAs is to provide safe and reliable alternatives to traditional capital investment projects. Using the processes set forth in Appendix HH, the Companies will pursue NWAs and NPAs both for capital infrastructure projects that are included within this Rate Plan's electric and gas capital forecasts (<u>see</u> Appendix R) and emerging capital infrastructure needs identified during the Rate Plan that are not included in such capital forecasts. For more information on NWAs and NPAs, see Appendix HH.

B. Recovery of Costs

The Companies will recover costs of their NWA and NPA programs as follows:

(1) General NWA/NPA costs not applicable to specific NWA/NPA projects will be considered O&M expenses.

(2) NWA/NPA costs associated with assets that are owned by NYSEG or RG&E will be treated as capital investments.

(3) Costs incurred by the Companies for implementation of new NWAs during the Rate Plan will be deferred with carrying costs.[20] Recovery of such costs will be amortized over a 10-year period, with offsetting credits to the extent that an NWA Project defers the need for a traditional infrastructure project included in the Company's Average Electric Plant in Service Balance. During the term of the Rate Plan and until base rates are reset, the amortized portion of such costs will be recovered through the Non-Bypassable Charge ("NBC"). Any unamortized costs plus carrying charges will be incorporated into base rates when electric base rates are reset.

(4) Costs incurred by the Companies for implementation of new NPAs during the Rate Plan will be deferred with carrying costs. Recovery of such costs will be amortized over the anticipated "used and useful" life of installed assets and equipment with offsetting credits to the extent that an NPA Project defers the need for a traditional infrastructure project included in the Company's Average Gas Plant in Service Balance. NPA projects without a clearly measurable period for amortization shall use a 20-year default amortization period. During the term of the Rate Plan and until base rates are reset, the amortized portion of such costs will be recovered through a separate surcharge. Any unamortized costs plus carrying charges will be incorporated into base rates when gas base rates are reset.

(5) Costs incurred by the Companies to advance wires or pipeline projects which are ultimately deferred or avoided by an NWA or NPA would be deferred for recovery until addressed in a future proceeding.

C. Effect on Net Plant Reconciliation

In the event the Companies utilize an NWA/NPA to replace or defer a transmission and distribution ("T&D") solution which is included in the Net Plant Targets, as described in Appendix S, and the Depreciation Targets, also described in Appendix S, the revenue requirement impact of the replaced or displaced project, with carrying costs, will be deferred for

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[20] Carrying costs for both NWAs and NPAs shall be at the pre-tax weighted average cost of capital.

future customer benefit and the Companies' Net Plant and Depreciation Targets will be adjusted accordingly.

To the extent an NWA project results in the Company displacing a capital project that is reflected in the targets for Average Electric Plant in Service Balances under the Net Plant Reconciliation ("NPR"), the balance(s) will be reduced to exclude the forecasted net plant associated with the displaced project. The carrying charge on the reduction of the Average Electric Plant in Service Balances that would otherwise be deferred for customer benefit will instead be applied as a credit against the recovery of the associated NWA project costs to be recovered from customers. In the event the carrying charge on the net plant of any displaced project is higher than the recovery of the associated NWA project costs, the difference will be deferred for the benefit of customers.

To the extent an NPA project results in the Company displacing a capital project that is reflected in the targets for Average Gas Plant in Service Balances under the NPR, the balance(s) will be reduced to exclude the forecasted net plant associated with the displaced project. The carrying charge on the reduction of the Average Gas Plant in Service Balances that would otherwise be deferred for customer benefit will instead be applied as a credit against the recovery of the associated NPA project costs to be recovered from customers. In the event the carrying charge on the net plant of any displaced project is higher than the recovery of the associated NPA project costs, the difference will be deferred for the benefit of customers.

For example, if the implementation of an NWA or NPA solution was able to defer for four years the need for a $5.0 million T&D investment that was assumed to have occurred at the beginning of RY2, then the Net Plant Targets for both RY2 and RY3 would be reduced by $5.0 million from the levels included in Appendix S.

D. NWA and NPA Incentives

The Companies will earn and recover incentives for NWAs and NPAs as discussed in Appendix HH.

E. Thermal Energy Networks

The Companies' proposed Utility Thermal Energy Network Pilot Projects and the associated cost recovery mechanism are being addressed in Case 22-M-0429, Proceeding on Motion of the Commission to Implement the Requirements of the Utility Thermal Energy Network and Jobs Act.

XXI. ADVANCED METERING INFRASTRUCTURE

The Proposal includes the continued implementation of an AMI system for all Businesses, which is anticipated to be completed by the end of 2025. Extensive details regarding AMI are set forth in the 2020 Rate Plan and Appendix O thereto.

Current projections indicate that the AMI project will not exceed either the capital or the operating expense budgets outlined in the 2020 Rate Plan. The capital costs for AMI are subject to a cumulative capital spend cap ("AMI Cap") with the reconciliation calculated upon final completion of the project as detailed in Section XXII.F of the 2020 Rate Plan. In the event the overall AMI capital costs are less than the $489.1 million AMI Cap, the operation of the net plant reconciliation mechanism will capture the benefit for customers. To the extent that one or more of the Companies' Businesses incur total capital costs of more than the Business's share of the $489.1 million, the Companies will have the opportunity to file a petition to the Commission requesting recovery of the amount over their share of the $489.1 million. The other Signatory Parties reserve all rights to challenge such recovery.

XXII. ENERGY EFFICIENCY AND ELECTRIC HEAT PUMPS

In the January 16, 2020 Order Authorizing Utility Energy Efficiency and Building Electrification Portfolios Through 2025, the Commission included utility specific electric and gas EE budgets and targets and electric heat pump program budgets and targets for years 2020-2025. This Proposal gradually increases the level of EE and electric heat pump program expense recovered in base delivery rates to move toward the level of the Companies' EE program and electric heat pump program budgets adopted in the January 16, 2020 Order. These gradual increases balance the impact of EE program expense on the revenue requirement with the Companies' aspiration to advance New York's EE goals. The amounts that are included in base electric and gas delivery rates for each Rate Year for each Business are set forth in the table below and are also included in Appendices B, C, D, and E. In addition, the Companies may: (1) shift any remaining funds from electric non-LMI to gas non-LMI when electric EE derived lifetime savings targets have been met in any Rate Year; and (2) shift any remaining funds from gas non-LMI to electric non-LMI when gas EE derived lifetime savings targets have been met in any Rate Year. In the event the Commission changes electric or gas EE budgets or targets during the term of this Rate Plan but does not adjust the Companies' revenue requirements or otherwise provide for recovery of such costs, the Companies shall be authorized to defer the revenue requirement impact of the cumulative difference between the amounts included in delivery rates in this Rate Plan and any increased budgets and targets established by the Commission.[21]

[21] The Companies will continue to collect, through the SBC surcharge, costs associated with EE programs not administered through the Companies (such as those administered by NYSERDA).

NYSEG – Electric EE ($Millions)	NENY Budget: 2023 $ 36.84	NENY Budget: 2024 $ 45.78	NENY Budget: 2025 $ 56.59	NENY Budget: 2026 $ 56.59
		NENY Budget: Prorated For FYE 4/30/2024 $ 39.82	NENY Budget: Prorated For FYE 4/30/2025 $ 49.39	NENY Budget: Prorated For FYE 4/30/2026 $ 56.59
		Authorized EE Cost Recovery in Rates: RY1 $ 28.76	Authorized EE Cost Recovery in Rates: RY2 $ 37.12	Authorized EE Cost Recovery in Rates: RY3 $ 47.22

NYSEG – Gas EE ($Millions)	NENY Budget: 2023 $ 6.85	NENY Budget: 2024 $ 8.68	NENY Budget: 2025 $ 10.86	NENY Budget: 2026 $ 10.86
		NENY Budget: Prorated For FYE 4/30/2024 $ 7.46	NENY Budget: Prorated For FYE 4/30/2025 $ 9.40	NENY Budget: Prorated For FYE 4/30/2026 $ 10.86
		Authorized EE Cost Recovery in Rates: RY1 $ 7.37	Authorized EE Cost Recovery in Rates: RY2 $ 8.15	Authorized EE Cost Recovery in Rates: RY3 $ 9.06

NYSEG – Heat Pumps ($Millions)	NENY Budget: 2023 $ 14.63	NENY Budget: 2024 $ 15.30	NENY Budget: 2025 $ 15.22	NENY Budget: 2026 $ 15.22
		NENY Budget: Prorated For FYE 4/30/2024 $ 14.85	NENY Budget: Prorated For FYE 4/30/2025 $ 15.27	NENY Budget: Prorated For FYE 4/30/2026 $ 15.22
		Authorized EE Cost Recovery in Rates: RY1 $ 14.17	Authorized EE Cost Recovery in Rates: RY2 $ 16.32	Authorized EE Cost Recovery in Rates: RY3 $ 18.42

RG&E – Electric EE ($Millions)	NENY Budget: 2023 $ 19.83	NENY Budget: 2024 $ 23.60	NENY Budget: 2025 $ 27.47	NENY Budget: 2026 $ 27.47
		NENY Budget: Prorated For FYE 4/30/2024 $ 21.09	NENY Budget: Prorated For FYE 4/30/2025 $ 24.89	NENY Budget: Prorated For FYE 4/30/2026 $ 24.89
		Authorized EE Cost Recovery in Rates: RY1 $ 15.05	Authorized EE Cost Recovery in Rates: RY2 $ 15.38	Authorized EE Cost Recovery in Rates: RY3 $ 15.49

RG&E – Gas EE ($Millions)	NENY Budget: 2023 $ 5.66	NENY Budget: 2024 $ 6.72	NENY Budget: 2025 $ 7.92	NENY Budget: 2026 $ 7.92
		NENY Budget: Prorated For FYE 4/30/2024 $ 6.01	NENY Budget: Prorated For FYE 4/30/2025 $ 7.12	NENY Budget: Prorated For FYE 4/30/2026 $ 7.92
		Authorized EE Cost Recovery in Rates: RY1 $ 4.17	Authorized EE Cost Recovery in Rates: RY2 $ 4.75	Authorized EE Cost Recovery in Rates: RY3 $ 5.47

RG&E – Heat Pumps ($Millions)	NENY Budget: 2023 $ 1.80	NENY Budget: 2024 $ 1.90	NENY Budget: 2025 $ 1.91	NENY Budget: 2026 $ 1.91
		NENY Budget: Prorated For FYE 4/30/2024 $ 1.83	NENY Budget: Prorated For FYE 4/30/2025 $ 1.90	NENY Budget: Prorated For FYE 4/30/2026 $ 1.91
		Authorized EE Cost Recovery in Rates: RY1 $ 0.88	Authorized EE Cost Recovery in Rates: RY2 $ 1.12	Authorized EE Cost Recovery in Rates: RY3 $ 1.36

The Companies will increase education and outreach for EE and electric heat pumps through the following channels:

1. Community Partnerships: In collaboration with government and community relations groups, the Companies will establish community partnerships with towns and communities to promote and increase awareness of the Companies' EE and electric heat pump programs. The Companies will also leverage the Avangrid companies' experience from Connecticut and Massachusetts community partnerships when collaborating with interested parties in the development of partnership objectives, goals, communications, awareness, and outreach strategies (e.g., holding main street events for small businesses and aligning EE outreach with community outreach calendars).
2. Energy Education: The Companies will seek to expand energy education beyond kit-based programs. As part of this effort, the Companies will consider webinars,

library events, canvassing, speaking engagements, green careers, and curriculum development for vocational schools/community colleges.

3. Non-profit/NGO Partnerships: The Companies will work to establish partnerships with NGO/Non-profits such as the Council on Aging, local commerce chambers, senior centers, houses of worship, YMCA, workforce boards, and clean energy taskforces to promote the Companies' EE and electric heat pump programs.

XXIII. EARNINGS ADJUSTMENT MECHANISMS

Commencing with the term of the Rate Plan, the Companies will implement the following four electric Earnings Adjustment Mechanisms ("EAMs"): (1) Solar DER Utilization MW; (2) Storage DER Utilization MW; (3) Demand Response; and (4) Electric Vehicle CO2 Reduction. These EAMs are more fully described in Appendix X and will be applicable on a Rate Year basis. Appendix X also sets forth the incentives associated with each EAM's minimum, midpoint, and maximum values.

A. EAM Reporting Requirements

On July 31, 2024, 2025, and 2026, NYSEG and RG&E will each make a compliance filing ("EAM Compliance Filing") to the Commission showing the calculation of incentives earned under each EAM for the Rate Year preceding the filing. Within 30 calendar days of filing the EAM Compliance Filing, the Companies will convene an informational meeting either in person or via teleconference of all interested parties to these proceedings to review the Companies' calculation of the EAM for each Business. The Companies will also file with the Secretary to the Commission quarterly reports no later than 60 days after the end of each calendar quarter to describe the Companies' progress toward each EAM metric's targets, the actions taken by the Companies to achieve target performance, and a forecast of whether the Companies expect to meet annual EAM targets.

B. Calculation of Achieved Incentive Amounts

The total available incentive amounts for each Company will be fixed for all three Rate Years (RY1, RY2, and RY3) as detailed in Appendix X.

C. Recovery of EAM Incentives

The Companies will be permitted to recover earned EAM incentives through a surcharge mechanism beginning 90 days after making its EAM Compliance Filing. NYSEG shall recover earned Electric EAMs through its NBC. RG&E shall recover earned Electric EAMs through its NBC.

For the Solar DER Utilization MW EAM and the Storage DER Utilization MW EAM, the Companies will allocate EAM awards to Service Classifications using transmission demand (12CP), primary demand, secondary demand, and energy allocators with each carrying equal weight.

The calculation of the earned incentives is subject to review and adjustment by the Commission.

XXIV. RATE ADJUSTMENT MECHANISM

Each Business will continue a RAM to return or collect the remaining Customer Bill Credits established in the 2020 Rate Plan,[22] and the net balance of other RAM Eligible Deferrals and Costs, including: (1) property taxes; (2) Major Storm deferral balances; (3) gas leak prone

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[22] The 2020 Rate Plan provided Customer Bill Credits to customers facing financial hardship who met certain criteria (up to a total of $16.5 million for NYSEG customers and up to a total of $13.5 million for RG&E customers). The Customer Bill Credits, which were dispersed in three phases, provided customers up to $100 in bill credits. The 2020 Rate Plan allowed the Companies to create regulatory assets for the Customer Bill Credits, which were to be recovered through the RAM over five years beginning in July 2021 with carrying charges applied on the unrecovered balance using the Commission's Other Customer Capital rate.

pipe replacement; (4) REV costs and fees which are not covered by other recovery mechanisms; (5) costs associated with the implementation of any Commission-ordered EV program which are not covered by any other cost recovery mechanisms; and (6) Covid-Related uncollectibles (RY1 and RY2 only). The policies and procedures with respect to the RAM are set forth in Appendix W. As set forth therein, the annual RAM recovery/return shall be limited to: (1) $30.0 million for NYSEG Electric; (2) $5.9 million for NYSEG Gas; (3) $15.3 million for RG&E Electric; and (4) $5.6 million for RG&E Gas.

Customer Bill Credits shall continue to be recovered from those service classes which were eligible to receive such credits. Specifically, residential classes will be charged for the recovery of the residential bill credits and applicable nonresidential service classes will be charged for the recovery of the non-residential bill credits. The RAM component for collecting the Customer Bill Credits will not be collected from those service classes ineligible to receive the Customer Bill Credits.

XXV. PERFORMANCE INCENTIVE MECHANISMS

NYSEG and RG&E are each authorized to receive certain positive incentives as set forth in Appendices L, P and II.

XXVI. DEPRECIATION

A. Rates

Depreciation rates (lives and salvage rates) to be used by all Businesses, and the plant accounts upon which they will be used, are agreed to as part of this Proposal. The new depreciation rates and associated plant accounts are set forth in Appendix Z.

B. Excess Depreciation Reserve

Separately, as shown on Appendices B and D and explained in Appendix F, NYSEG Electric will amortize $55.0 million (RY1), $40.0 million (RY2), and $25.0 million (RY3) and

RG&E Electric will amortize \$3.0 million (RY1), \$2.0 million (RY2), and \$1.0 million (RY3). The RY3 amortization level will continue beyond RY3 until changed by the Commission.

XXVII. NET PLANT RECONCILIATION

A. Net Plant Targets and Depreciation Targets

Each Business shall reconcile downward its actual Electric and Gas Net Plant and Book Depreciation to the targets set forth in this Proposal for each of the Rate Years with the exception of the individual projects described below. The Net Plant Targets are based on the Rate Year Electric and Gas Net Plant amounts set forth in Appendix S. The capital expenditure forecast used to develop the net plant balances is shown in Appendix R. There will be individual Net Plant Reconciliations with separate Net Plant Targets with downward-only reconciliation and related status reporting for the following projects: Resiliency Category at RG&E Electric and NYSEG Electric,[23] AMI at all four Businesses, the NYSEG Gas Hebron Station/Line J Retirement and Winney Hill Regulatory Station Projects, and the RG&E Gas Mendon Gate Station Project.

The depreciation targets reflect the depreciation rates included in this Proposal as set forth in Appendix Z.

The annual reconciliations and dispositions in this Section will be calculated separately for the four Businesses (i.e., NYSEG Electric and Gas and RG&E Electric and Gas) as well as for the individual projects identified above. An example of the annual reconciliation calculation is shown on Appendix S.

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[23] The Resiliency Category Net Plant Reconciliation will also include emergent projects within the Resiliency Plan, DSIP Grid Automation, SCADA Automation, and Recloser Automation Programs.

Net Plant and Depreciation targets will be adjusted for: (1) any asset sales requiring New York State Public Service Law ("PSL") § 70 approval that occur prior to or during the Rate Plan period; and (2) any electric or gas projects deferred or avoided through an NWA or NPA.

Actual Electric, Gas and Allocated Common as well as individual projects and Average Net Plant for each Rate Year will be reconciled to the Electric, Gas and Allocated Common Net Plant Targets on an annual basis for RY1, RY2, and RY3.

The revenue requirement impact (i.e., return and depreciation) for each Business resulting from the difference (whether positive or negative) between actual average Electric, Gas and Allocated Common Net Plant Balances and the Net Plant Targets will carry forward for each Rate Year and be summed at the end of the Rate Plan.

If at the end of the Rate Plan the cumulative revenue requirement impact from the Electric or Gas and Allocated Common Net Plant reconciliation is negative (i.e., lower Net Plant plus depreciation than the targets), the Companies will defer the revenue requirement impact for the benefit of customers of that Electric or Gas Business.

If at the end of the Rate Plan the cumulative revenue requirement impact for, separately, Electric or Gas and Allocated Common Net Plant reconciliation is positive, there will be no deferral for that Business.

The Companies have the flexibility over the term of the Rate Plan to modify the type, timing, identity, priority, nature, and scope of capital projects from those currently forecasted subject to the Net Plant Reconciliation provisions set forth above and the capital reporting provisions set forth below.

B. Capital Expenditure Reporting

The Companies will file reports on capital expenditures with the Secretary to the Commission, with a copy provided to Staff on a quarterly and annual basis. The Companies will meet with Staff within 60 days following the end of the calendar quarter.

1. Reporting Rules

All reports to Staff will include an explanation for removing or revising capital projects currently listed in Appendix R or adding new capital projects to those listed in Appendix R. This includes denoting when a project/program has changed categories or names, been absorbed into another program, or broken out from the original project/program listed in Appendix R. The Companies will provide a detailed explanation of why these changes have been made and clearly denote the previous name of a program/project. If a project is broken out from a historical program, the Companies will explain why it has been broken out from the original program, alternatively, if a project has been absorbed into another program, the Companies will explain why it has been absorbed into another program. This will allow for better transparency as to how projects are tracked as well as clearly identify the Companies' goals according to specific categories. The Companies will also provide to Staff project justifications and prioritization consistent with the Companies' Capital Investment Prioritization Strategies for newly identified projects. In addition, impacts to future timelines, budgets, or changes to capital projects need to be provided if there are scope changes for any project that exceeds the thresholds listed below.

2. Reporting Thresholds

The Companies will provide the actual and forecasted expenditures for all capital projects identified in Appendix R, any electric capital projects greater than $1 million, any gas capital projects greater than $750,000, and any common capital projects greater than $750,000. Appendix R provides a list of the planned capital expenditures for the four Businesses for calendar years 2023-2026. The reports will include any emergent projects or projects within programs over the thresholds specified above. The Companies will file "whitepapers" for emergent projects that are over the above-mentioned thresholds. Any projects over the thresholds within a program will be broken out as an individual project in the capital budget. Programs include, but are not limited to TLD Replacements, T&S Asset Condition, Resiliency, BES, CLCPA, etc. The Companies will include a narrative explanation of the variation in the Quarterly and Annual Reports, for each such project that experiences a cost delta of plus or minus 10 percent or a timeline delta of plus or minus six months.

3. Quarterly Reporting

Quarterly Reporting is due 45 days following the calendar quarter (i.e., Quarter 1 due May 15, Quarter 2 due August 15, Quarter 3 due November 15, and Quarter 4 due February 15). The Companies and Staff will meet no later than 60 days following the calendar quarter.

a. Variances – Projects identified in Appendix R and projects over the thresholds noted above will be listed in this report.

b. Program Expenditures – The Companies will provide a breakdown of projects under a program for the thresholds referenced above and provide any cost deltas.

c. Pole Replacements – NYSEG and RG&E will track spending and quantity of poles replaced by division on a quarterly basis. Pole replacement programs include, but are not limited to Distribution Line Inspection (DLI)/Electric Operations (Electric Ops)/Distribution Line Deficiencies, Wood Pole Inspect and Treat (WPIT), Distribution Line, Make Ready, Electric Betterments, Resiliency, etc. The Companies will provide the age, latest inspection finding, reason pole was replaced (inspection finding Level II, accident, etc.), cost, and denote any material differences (major equipment, size, etc.) for the pole replaced. The Companies will work with

Staff to evolve the reporting, which will increase in frequency over the term of the Rate Plan. For RY1, the Companies will file a single report at the end of the Rate Year. For RY2, the Companies will file reports at the end of September and at the end of RY2. For RY3, the Companies will file these reports on a quarterly basis.

d. Reactive Programs – All dollars spent in the Storms Electric (provided such events are not classified as Major Storms), Distribution Line, and Transmission Line programs will be tracked on a quarterly basis. The Companies will provide the storm/incident that elicited the need to spend in this program, the equipment/material that is being replaced, installation date of the item being replaced, costs for the replacement, and how it is being tracked within minor storm spending and/or other programs. The Companies will work with Staff to evolve the reporting, which will increase in frequency over the term of the Rate Plan. For RY1, the Companies will file a single report at the end of the Rate Year. For RY2, the Companies will file reports at the end of September and at the end of RY2. For RY3, the Companies will file these reports on a quarterly basis.

4. <u>Annual Reporting</u>

Annual Reporting is due April 1 of the following year. The Companies and Staff will meet no later than 30 days following the submittal of the annual report.

a. Capital Expenditures Update – The Companies will provide a narrative on project design, permitting, and/or construction status (including a construction schedule for each project), and capital project documentation for any ongoing projects, as well as a description of any new projects or programs, history of changes to the program in the last year, and variances from the prior year Five-Year Capital Investment Plan. The summary of capital expenditures for all capital projects and programs will include all ongoing and active construction projects and programs.

b. Automation Device Installation – The Companies will provide their goals for installation of automation devices in each automation program. In addition, the Companies will outline their plan to target specific areas, including their estimated expenditures in each area and the number of each device to be installed. The Companies will also provide the reasoning for targeting these areas, long term goals with statistics broken down by division, and a comparison of what was accomplished including improvements to the division in the previous year.

c. Security Update – The Companies are to report any changes within physical and cyber security programs. Changes include, but are not limited to, any changes to project names, schedule, significant deadlines (e.g., Acceptance Test or In-Service Date), scope, timeline, or budgets. The Companies' annual report will also:

    i. Include any changes to physical or cyber security capabilities and/or coverage, hiring for physical and cyber security FTEs and job titles, and internal/external hires that need to be backfilled.

    ii. Include the total number of facilities by name that have security cameras and the change from the previous year, the name of the facilities added to the monitored "site list" for the Security Operations Center and which reflects the changes from the previous year. This includes sites that have been migrated to the Avangrid Secure Domain ("ASD") with completion dates of migration (including the established security tier of each location, change in number from previous year, and any security incidents at migrated facilities).

iii. Provide the status of the Fire Protection,[24] Global Cybersecurity Master Plan (formerly Global Cybersecurity Director's Plan), and ASD projects: ASD Security System Installation (Formerly System Cutover), ASD OSG Telecommunications, and ASD OSG Infrastructure programs.

iv. Include any cybersecurity exigent spending over $200,000 per event (e.g., the response to the Solar Winds or the log4j events).

d. The Five-Year Capital Investment Plan will include the projected five-year capital plan and budget with descriptions of the projects above the reporting thresholds.

C. Future Rate Cases

The Companies shall keep detailed records of the calculations and methodologies used to estimate future gas capital project costs from historic project costs. The Companies agree to provide this information in future rate case filings to support their forecasted gas capital investments.

XXVIII. RECONCILIATIONS / DEFERRALS

The Companies will reconcile certain costs and related items as set forth in Appendix T and U with key items discussed below.

A. Labor

The reconciliation mechanism is set forth in Appendix U.

[24] The Companies will report on Fire Protection regardless of the threshold identified above.

B. Pensions / Other Post-Employment Benefits ("OPEBs")

The Companies will remain on the Commission's Pension Policy Statement[25] and subject to the Pension Policy Statement's reconciliation and deferral provisions. Accordingly, the Companies will reconcile their actual Pensions and OPEB expenses in conformance with the Pension Policy Statement to the level allowed in the rates set forth in Appendix T. Non-qualified plan costs are excluded from the reconciliation. Each Company continues to include their OPEB internal reserve in rate base and therefore is not required to accrue interest on that internal reserve.

C. Property Taxes

If the level of actual expense for property taxes, including any property tax refunds received, varies in any Rate Year from the projected level provided in rates, which levels are set forth in Appendix T, 90 percent of the variation will be deferred and either recovered from or credited to customers, subject to the following cap: each Company's ten percent share of property tax expenses above or below the level in rates is capped at an annual amount equal to ten basis points on common equity for each Rate Year. The Companies will defer on their books of account, for recovery from or credit to customers, 100 percent of the variation above or below the level at which the cap takes effect.

Property tax refunds allocated to electric and/or gas that are not reflected in the Companies' respective Rate Plans and that result from the Companies' efforts, including credits against tax payments or similar forms of tax reductions (intended to return or offset past

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[25] Case 91-M-0890 – In the Matter of the Development of a Statement of Policy Concerning the Accounting and Ratemaking Treatment for Pensions and Postretirement Benefits Other than Pensions, Statement of Policy and Order Concerning the Accounting and Ratemaking Treatment for Pensions and Postretirement Benefits Other Than Pensions (Sept. 7, 1993).

overcharges or payments determined to have been in excess of the property tax liability appropriate for the Companies), will be deferred for future disposition, except for an amount equal to 14 percent of the net refund or credit, which will be retained by the Companies. Incremental expenses incurred by the Companies related to their property tax savings efforts (e.g., economic obsolescence, tax challenges) to achieve the property tax refunds or credits will be offset against the refund or credit before any allocation of the proceeds is calculated.[26] The deferral and retention of property tax refunds and credits will be subject to an annual report to the Secretary by the Companies, on or before the 60th day after the end of any Rate Year in which such deferral or retention of refunds or credits occurs. Additionally, the Companies are not relieved of the requirements of 16 NYCRR § 89.3 with respect to any refunds they receive that reach guideline thresholds and require reporting to the Commission.

D. Electric and Gas Vegetation Management

A cumulative downward-only reconciliation mechanism, with carryover for the Companies' Distribution Electric Vegetation Management programs applies, as set forth in Appendix T. The Companies also will utilize a downward-only reconciliation mechanism for their Gas Vegetation Management as set forth in Appendix T.

E. Management, Operations and Staffing Audit Expenses

The Companies will symmetrically reconcile any remaining incremental costs related to implementing projects and recommendations stemming from their last management and operations audit (Case 16-M-0610). Additionally, the Companies will defer expenses associated with consultants for Case 23-M-0103 and any future management, operations, staffing, or other

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[26] These shall not reflect the incremental expenses incurred by the Companies resulting solely in the reduction of future assessments.

audit initiated by the Commission. In the event these incremental costs are incurred to implement any audit recommendations and any actual quantifiable benefits arise from the implementation of any operational/staffing audit recommendation, the Companies will defer those net costs/benefits experienced during the Rate Plan for future recovery from or pass back to customers.

F. Gas Research and Development ("R&D")

Each Company shall reconcile actual expenditures for gas R&D expenditures and related tax credits with the amount provided in rates on an annual basis.

G. Pipeline Integrity Costs

The Companies shall reconcile actual expenditures for gas distribution and transmission Pipeline Integrity costs on an individual Company basis with the amount provided in rates on an annual basis as set forth in Appendix T. If the amount expended is less than the amount allowed in rates, the individual Company shall defer the difference which shall be carried over and may be used in a future year for Pipeline Integrity costs.

H. Incremental Maintenance

There will be a downward-only reconciliation mechanism with carryover for the total Incremental Maintenance on an individual Business basis with the amount provided in rates on an annual basis. The specific programs and rate allowances included as part of Incremental Maintenance are depicted in Appendix T. At the end of each Rate Year, the amount expended, in total, for Incremental Maintenance will be compared with the amount allowed in rates and will be included in the Companies' annual compliance filing. If the amount expended is less than the amount allowed in rates, the individual Company shall defer the difference which shall be carried over and may be used in a future year for Incremental Maintenance costs.

I. Gas Reconcilable Programs

There will be a downward-only reconciliation mechanism with carryover for the total Gas Reconcilable Program spending on an individual Company basis with the amount provided in rates on an annual basis. The specific programs and rate allowances included as part of Gas Reconcilable Programs are depicted in Appendix T. At the end of each Rate Year, the amount expended, in total, for Gas Reconcilable Programs will be compared with the amount allowed in rates and will be included in the Companies' annual compliance filing. If the amount expended is less than the amount allowed in rates, the individual Company shall defer the difference which shall be carried over and may be used in a future year for Gas Reconcilable Program costs.

J. Covid-Related Uncollectible Expense

Uncollectible expense (write-off amounts) will be reconcilable in RY1 and RY2 only.

K. Reserve Accounting Treatment for Environmental Remediation Costs

The amounts included in rates for Environmental Remediation are set forth in Appendix T. NYSEG and RG&E will continue to utilize reserve accounting for Environmental Remediation costs.

L. Storm Reserve Accounting

The Storm Reserve Accounting procedures and operations are set forth in Appendix H. NYSEG and RG&E will continue to utilize reserve accounting for Major Storm costs, including qualified pre-staging and mobilization costs.

M. Legislative, Accounting, Regulatory, Tax and Related Actions

If the Commission has not addressed or does not otherwise address the treatment of a legislative, accounting, regulatory, tax, fee,[27] or government-mandated action (e.g., through a surcharge or credit) via a generic or Company-specific proceeding, NYSEG and RG&E will defer on a Rate Year basis the incremental cost or savings resulting from such legislative, accounting, regulatory, tax, fee, or government-mandated action occurring during the term of this Proposal as long as the incremental annual pre-tax change in expense is greater than: (1) \$2.0 million for NYSEG Electric; (2) \$1.0 million for NYSEG Gas; (3) \$1.5 million for RG&E Electric; and (4) \$1.0 million for RG&E Gas, and the relevant Company is not earning above the first earnings sharing threshold amounts as calculated set forth in Section VII. If the above dollar thresholds are triggered, the Company will defer the entire amount of incremental cost changes.

The Companies will defer the revenue requirement impact of tax expense, credits and associated interest imposed on the Companies and recorded as the result of federal, state, and local tax audits. The amounts resulting from tax audits are not subject to the annual dollar thresholds set forth above that exist for certain other deferrals.

N. Nuclear Electric Insurance Limited ("NEIL") Credits

The NYSEG Electric and RG&E Electric revenue requirements include NEIL credits, which are symmetrically reconcilable. The Companies will defer the difference between the

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[27] For purpose of this Section, the term "fees" is defined as charges (however labeled), imposed by state, local, municipal, quasi-governmental entities, or special districts on the Companies and/or their operations. Examples include, but are not limited to, franchise fees, special franchise fees, permit fees, road use fees, or other special use charges.

amounts reflected in rates and actual credits received. The NEIL credit amounts included in the revenue requirements are reflected in Appendix B and Appendix D.

O. Economic Development

Economic Development programs are symmetrically reconcilable with carry-forwards.

P. Energy Affordability Program

The Energy Affordability Program reconciliations are set forth in Appendices P and T.

Q. Department of Energy Liability

The carrying costs of an RG&E Department of Energy liability will be reconciled and deferred as set forth in Appendix T.

R. Debt Cost Reconciliation

The Companies will reconcile their overall fixed debt cost (based on interest rates) as set forth in Appendix T.

S. Energy Efficiency/Heat Pumps

EE/Heat Pump costs are symmetrically reconcilable with carry-forwards as set forth in greater detail in Appendix T.

T. Electric Vehicles

Costs associated with the implementation of any Commission-ordered EV program, including but not limited to customer incentive program costs, will be reconciled and recoverable through the RAM as described in Appendix W, to the extent those costs are not recoverable through an alternate Commission-approved mechanism.

U. Additional Reconciliation/Deferral Provisions

In addition to the foregoing reconciliation provisions, other applicable existing reconciliations and/or deferral accounting for other tariffed items (e.g., NBC) will continue in effect through the term of the Rate Plan and thereafter until modified or discontinued by the Commission.

The Companies shall retain the right to petition the Commission for authorization to defer on their books of account extraordinary expenditures not otherwise addressed by this Proposal, including but not limited to flood, riot, terrorism, cyber terrorism, cyber-attack, sabotage, war, epidemics, pandemic, declaration of a local, state, or federal disaster or emergency in the service area, and Acts of God.

V. Interest on Deferred Items

Unless otherwise specified, the Companies will accrue interest on all deferred amounts not embedded in rates using the applicable pre-tax rate of return for NYSEG Electric and Gas and RG&E Electric and Gas on the after-tax balance of amounts deferred.

W. Post-Term Amortization

After the term of the Rate Plan, the Companies will defer the revenue requirement effect associated with expiring amortizations and any RY3 rate levelization/shaping deferral, as shown in Appendix AA.

XXIX. COST OF SERVICE, REVENUE ALLOCATION AND RATE DESIGN ISSUES

A. Electric Cost of Service, Revenue Allocation, and Rate Design

The provisions associated with the Companies' electric cost of service, revenue allocation, and rate design are set forth in detail in Appendix BB.

B. Electric Rates and Customer Bill Impacts

The electric rates by service classification for each Rate Year are set forth in Appendix CC. The estimated customer bill impacts by Rate Year for the majority of the electric service classifications are also set forth in Appendix CC.

C. Gas Cost of Service, Revenue Allocation, and Rate Design

The provisions associated with the Companies' gas cost of service, revenue allocation, and rate design are set forth in detail in Appendix DD.

D. Gas Rates and Customer Bill Impacts

The gas rates by service classification for each Rate Year are set forth in Appendix EE. The estimated customer bill impacts by Rate Year for the majority of the gas service classifications are also set forth in Appendix EE.

XXX. REVENUE DECOUPLING MECHANISM

A. Electric

NYSEG and RG&E will continue an Electric Revenue Decoupling Mechanism ("RDM") on a total revenue per class basis. Appendix FF sets forth the RDM process and the electric service classes covered by the RDM and the RY1, RY2, and RY3 targets for each service class (and in certain instances sub-classes). The RY3 targets will repeat annually until changed by the Commission.

For reconciliation purposes, the Companies will group together all residential RDM classes, but will maintain individual non-residential RDM service classes. Street Lighting service classes will continue to be subject to the RDM. The RDM will apply to all service classes under each Company's respective Street Lighting tariff.

NYSEG Service Class No. 11 – Standby Service and RG&E Service Class No. 14 – Standby Service will also be included in the RDM. The revenues associated with customers taking service in these service classes will be included in the respective customers' Otherwise Applicable Service Class ("OASC") RDM.

RDM adjustments would apply to lamp charges or volumetric delivery charges, as applicable. The RDM will be adjusted for each Company's street lighting service class to account for street lighting accounts where customers move to a delivery only street lighting class. The RDM adjustment will account for the change in customer revenues between the customers former service class and the new service class. The RDM will not apply to Area Lighting.

The RDM will also not apply to customers taking service under NYSEG SC No. 7-4 – Transmission or customers taking service under NYSEG SC No. 11 whose OASC is SC No. 7-4 – Transmission.

B. Gas

NYSEG and RG&E will continue a Gas RDM on a total revenue per class basis. Appendix FF sets forth the RDM process and the gas service classes covered by the RDM and the RY1, RY2, and RY3 targets. The RY3 targets will repeat annually until changed by the Commission.

For reconciliation purposes, each Company will maintain two RDM classes: residential and non-residential.

XXXI. OTHER

A. Street Lighting Items

NYSEG and RG&E will implement the Street Lighting Dimming Pilot as described in Appendix O. The implementation of the pilot is conditioned on the successful recruitment of municipalities and reaching an agreement on all pilot terms and conditions.

B. Gas Cost Incentive Mechanism ("GCIM")

The optimization activities under the GCIM provide benefits to customers and proper incentives to the Companies and, thus, will be extended. Savings under NYSEG's and RG&E's GCIM will continue to be shared as follows: (1) 85 percent/15 percent (customer/shareholder) for non-migration capacity release; (2) 85 percent/15 percent (customer/shareholder) for off-system sales net of gas costs and related optimization transactions; and (3) 80 percent/20 percent (customer/shareholder) for local production.

C. Electric Cost Incentive Mechanisms

1. Grandfathered Transmission Entitlements Optimization Revenues

NYSEG will continue to share 80 percent/20 percent between customers and shareholders the cost savings resulting from optimization activities associated with the use of NYSEG's grandfathered transmission entitlements of up to 471 MW, located in PJM Interconnection LLC regional transmission organization, into the New York Independent System Operator, Inc. regional transmission organization. The optimization of these entitlements will benefit all delivery customers through lower electric supply costs in the NBC.

2. Procurement of Environmental Attributes

The Companies will share 80 percent/20 percent between customers and shareholders any savings associated with procurement activities for Tier-1 eligible renewable energy certificates as defined in the Commission's August 1, 2016 Order Adopting a Clean Energy Standard issued in Case 15-E-0302[28] through the two-step process detailed in Appendix II.

D. Certified Natural Gas Pilot

Certified natural gas is natural gas that has been evaluated and verified by an independent third-party to have been produced with reduced greenhouse gas emissions and environmental impacts, beyond current environmental regulations. Some definitions of certified natural gas also include best practices around minimizing other environmental and community impacts, however those elements are not addressed in this Proposal. The Companies will implement a

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[28] Case 15-E-0302 - Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard, Order Adopting Clean Energy Standard (Aug. 1, 2016).

pilot program designed to allow for the procurement of certified natural gas, during the Rate Plan, limited to an annual cost above traditional supplies of $250,000 per year per Company. Procured certified natural gas will be recovered similarly to other natural gas purchases through each Company's Gas Supply Charge.

The Companies agrees to limit purchases to those certified and has obtained one of the following ratings:

(1) Project Canary Trustwell Platinum rating;

(2) MiQ Grade A rating; and/or

(3) OGMP 2.0, Level 5 rating.

Within 90 days following the end of each Rate Year, the Companies will file an annual report with the Secretary under Cases 22-G-0318 and 22-G-0320 describing the progress of the pilot to date and review the report with Staff during regularly scheduled meetings on gas supply issues. The annual report will contain, at minimum, the following information:

(1) Proposed purchase reporting;

(2) The total volume of certified natural gas purchased and the funds expended through the pilot for the subject Rate Year and for the total duration of the pilot; and

(3) The number of suppliers from which the Companies purchased certified natural gas, and the names of all certifiers.

E. Financial Reporting Requirement Change

As part of Case 07-M-0906, and further directed in Case 12-M-0066, the Commission required the continuation of certain periodic financial and reporting conditions related to Security and Exchange Commission ("SEC") reporting rules and requirements because Energy East was being delisted from the New York Stock Exchange and was no longer going to be a public registrant. Avangrid was thereafter formed in July 2015 and has been a registrant and subject to all of the SEC reporting rules/requirements which were being covered by the aforementioned requirements. In light of the foregoing and given that Avangrid's SEC reports are publicly available, the aforementioned reporting requirements from Case 07-M-0906 and continued in Case 12-M-0666 will be discontinued upon the Commission's approval of this Proposal.

F. Broadband Expansion

In 2022, Governor Hochul announced the start of the $1 billion ConnectALL initiative, the largest ever investment in New York's 21st century infrastructure, as part of her State of the State. ConnectAll is intended to deliver affordable broadband to millions of New Yorkers and transform the state's digital infrastructure. Under the new initiative, New York State will use over $1 billion in public and private investments to connect New Yorkers in rural and urban areas statewide to broadband. This includes grant programs to promote local connectivity and infrastructure and for rural broadband funding. Stated simply, these programs are working, driving additional pole attachment applications by broadband companies impacting the Companies' infrastructure. As a result of these applications, the Companies may experience extraordinary increases in the level of pole attachment requests. The Signatory Parties recognize that this Proposal does not preclude the Companies from filing a petition regarding the Companies' broadband make ready capital expenditures. Further, the Signatory Parties do not take a position on the merit of such potential petition.

XXXII. COMPLIANCE AND REPORTING REQUIREMENTS

The compliance and reporting requirements set forth in this Proposal that will apply to the Companies upon issuance by the Commission of an Order approving this Proposal are set forth in Appendix JJ.

XXXIII. MISCELLANEOUS PROVISIONS

A. Continuation of Provisions; Rate Changes; Reservation of Authority

Unless otherwise expressly provided herein, the provisions of this Proposal will continue after RY3 for electric and for gas, unless and until electric or gas base delivery service rates, respectively, are changed by Commission Order. For any provision subject to RY1, RY2, and RY3 targets, the RY3 target shall be applicable to any additional Rate Year(s).

Nothing herein precludes NYSEG or RG&E from filing a new general rate case for electric or gas base delivery rates to be effective on or after May 1, 2026. Except pursuant to rate changes permitted by this Section, the Companies will not file new base delivery rates to become effective prior to May 1, 2026.

Changes to the Companies' base delivery service rates during the term of the Rate Plan will not be permitted except for: (1) the changes provided for or detailed in this Proposal; and (2) subject to Commission approval, changes as a result of the following circumstances:

a. A minor change, whose revenue effect is *de minimis* or essentially offset by associated changes within the same class so that the difference in the revenues that NYSEG's and RG&E's base delivery service rates are designed to produce overall before such a change is *de minimis*, may be made to any individual base delivery service rate or rates. It is understood that, over time, such minor changes may be necessary and that they may continue to be sought during the term of the Rate Plan.

b. Upon the occurrence, at any time, of circumstances that in the judgment of the Commission so threaten, respectively, NYSEG's or RG&E's economic viability or ability to maintain safe, reliable, and adequate service as to warrant an exception to the limitations on rate changes provided for or detailed in this Proposal, NYSEG or RG&E will be permitted to file for an increase in base delivery service rates.

c. The Signatory Parties recognize that the Commission retains authority to act on the level of NYSEG's and RG&E's rates in the event of unforeseen circumstances that, in the Commission's opinion, have such a substantial impact on the range of earnings levels or equity costs envisioned by this Proposal as to render NYSEG's and RG&E's rates unjust or unreasonable or insufficient for the provision of safe and adequate service.

d. Nothing herein will preclude any Signatory Party from petitioning the Commission for approval of new services, the implementation of new service classifications and/or cancellation of existing service classifications, or rate design or revenue allocation changes which are not contrary to the agreed upon terms and conditions set forth herein. All changes will be implemented on a revenue neutral and earnings neutral basis.

e. The Signatory Parties reserve the right to oppose any filings made under this section.

B. Request for Exemption from Disclosure

Nothing in this Proposal prevents the Companies from seeking a request for exemption from disclosure under 16 NYCRR Part 6 for all or any part(s) of any document or report filed with the Commission (or submitted to Staff) in accordance with this Proposal or prohibits or restricts any other party from challenging any such request.

C. Dispute Resolution

In the event of any disagreement over the interpretation of this Proposal or the implementation of any of the provisions of this Proposal which cannot be resolved informally among the parties, such disagreement will be resolved as follows: the parties promptly will confer and, in good faith, will attempt to resolve such disagreement. If any such disagreement cannot be resolved by the parties, then the matter will be submitted to an ALJ designated by the Chief ALJ for a determination on an expedited basis using alternative dispute resolution techniques or such other procedures as the ALJ decides are appropriate under the circumstances. Within 15 days from the ALJ's decision, any party may petition the Commission for relief from the ALJ's determination on the disputed matter.

D. Provisions Not Separable

The Signatory Parties intend this Proposal to be a complete resolution of all the issues in Cases 22-E-0317, 22-G-0318, 22-E-0319 and 22-G-0320.[29] The terms of this Proposal are submitted as an integrated whole. If the Commission does not accept this Proposal according to its terms as the basis of the resolution of all issues addressed without change or condition, each Signatory Party shall have the right to withdraw from this Proposal upon written notice to the Commission within ten days of the Commission's issuance of a final order in these proceedings. Upon such a withdrawal, that Signatory Party shall be free to pursue its respective positions in these proceedings without prejudice, and this Proposal shall not be used in evidence or cited against any such Signatory Party or used for any other purpose. It is also understood that each provision of this Proposal is in consideration and support of all the other provisions, and expressly conditioned upon acceptance by the Commission of all Proposal provisions. Except as set forth herein, 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 herein.

E. Provisions Not Precedent

The terms and provisions of this Proposal apply solely to, and are binding only in, the context of the purposes and results of this Proposal. None of the terms or provisions of this

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[29] The Signatory Parties have agreed to a process to address further actions to be taken in the future to fully effectuate this Proposal. See Section XXXIII.H (Further Assurances).

Proposal, nor any methodology or principle utilized herein, and none of the positions taken herein by any Signatory Party may be referred to, cited, or relied upon by any other Signatory Party in any fashion as binding precedent in any other proceeding before the Commission or any other regulatory agency or before any court of law for any purpose other than furtherance of the purposes, results, and disposition of matters governed by this Proposal and except as may be necessary in explaining derivation of specific costs or accounting treatments as relevant to future ratemaking proceedings. Concessions made by Signatory Parties on various electric and gas issues included in this Proposal do not preclude those parties from addressing such issues in future rate proceedings or in other proceedings. This Proposal shall not be construed, interpreted, or otherwise deemed in any respect to constitute an admission by any Signatory Party regarding any allegation, contention, or issue raised in these proceedings or addressed in this Proposal.

F. Submission of Proposal

Each Signatory Party agrees to submit this Proposal to the Commission, to support and request its adoption by the Commission, and not to take a conflicting position in these proceedings. The Signatory Parties assert that the resolution of the issues, as set forth in this Proposal, is just and reasonable and otherwise in accordance with the PSL, the Commission's regulations and applicable Commission precedent. The Signatory Parties assert that this Proposal will satisfy the requirements of PSL § 65(1) that NYSEG and RG&E provide safe and adequate service at just and reasonable rates.

G. Effect of Commission Adoption of Terms of the Proposal

No provision of this Proposal or the Commission's adoption of the terms of this Proposal shall in any way abrogate or limit the Commission's statutory authority under the PSL. The Signatory Parties recognize that any Commission adoption of the terms of this Proposal does not waive the Commission's ongoing rights and responsibilities to enforce its orders and effectuate the goals expressed therein, nor the rights and responsibilities of Staff to conduct investigations or take other actions in furtherance of its duties and responsibilities.

H. Further Assurances

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

I. Scope of Provisions

No term or provision of this Proposal that relates specifically to one or more but not all of electric and gas service, limits any rights of the Companies or any party to petition the Commission for any purpose with respect to the service(s) not specified in such term or provision.

J. Execution

This Proposal may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument which shall be binding upon each Signatory Party when its executed counterpart is filed with the Secretary to the Commission. This Proposal will be binding on each and every Signatory Party when the counterparts have been executed. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a "pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or "pdf" signature page were an original thereof.

K. Entire Agreement

This Proposal, including all attachments, exhibits and appendices, if any, represents the entire agreement of the Signatory Parties with respect to the matters resolved herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

NEW YORK STATE ELECTRIC & GAS CORPORATION

June 14, 2023 By: ______________________

Name: Patricia H. Nilsen
Title: President and Chief Executive Officer of NYSEG and RG&E

By: ______________________

Name: Andrea VanLuling
Title: Controller and Treasurer of NYSEG and RG&E

ROCHESTER GAS AND ELECTRIC CORPORATION

June 14, 2023 By: ______________________

Name: Patricia H. Nilsen
Title: President and Chief Executive Officer of NYSEG and RG&E

By: ______________________

Name: Andrea VanLuling
Title: Controller and Treasurer of NYSEG and RG&E

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

NEW YORK STATE DEPARTMENT OF PUBLIC SERVICE

June 12, 2023 By: ______________________

Joseph Dowling

Assistant Counsel

CONVERGENT ENERGY AND POWER, LP

June 9, 2023 By: Mariko McDonagh Meier /MMM/

Name: Mariko McDonagh Meier
Title: Chief Revenue Officer

Convergent Energy and Power, LP signs this Joint Proposal with respect to the electric service provisions (Cases 22-E-0317 and 22-E-0319) only and not for the gas service provisions (Case 22-G-0318 and 22-G-0320).

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL UNION 10

June 14th, 2023

By: ______________________

Name:

Title: Representative for International Brotherhood of Electrical Workers, Local Union 10

MULTIPLE INTERVENORS[1]

June 12 , 2023

By: Michael B. Mager

Name: Michael B. Mager
Title: Couch White, LLP
Counsel to Multiple Intervenors

4877-9527-6905, v. 1

[1] Multiple Intervenors' support of the Joint Proposal is limited to the following provisions: (a) those pertaining to the proposed electric revenue allocations; (b) those pertaining to the proposed gas revenue allocations; (c) those pertaining to the proposed electric large non-residential rate designs; (d) those pertaining to the proposed gas large non-residential rate designs; and (e) Appendix M. Multiple Intervenors' support of the proposed electric and gas revenue allocations and large non-residential rate designs excludes the proposed underlying revenue requirements and make-whole treatments reflected therein.

NEW YORK POWER AUTHORITY *

June 9, 2023

By: [signature]

Name: Maribel Cruz

Title: Interim Vice President,
Customer & Clean Energy Solutions

* New York Power Authority signs this Joint Proposal with respect to the electric service provisions and does not take any position regarding the gas service provisions.

NUCOR STEEL AUBURN, INC.

Supporting the Joint Proposal as to matters concerning NYSEG electric and gas

June 13, 2023

By: ______________________

Name: James W. Brew

Title: Stone Mattheis Xenopoulos & Brew P.C.
Counsel to Nucor Steel Auburn, Inc.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

UTILITY INTERVENTION UNIT,
DIVISION OF CONSUMER PROTECTION,
DEPARTMENT OF STATE

June 12, 2023

By: ______________________

Name: Erin Hogan
Title: Director

UIU signs on to the Joint Proposal as it relates to the NYSEG and RGE electric and gas revenue allocation in Cases 22-E-0317, *et. al.*

WALMART INC.

June _9_, 2023

By: ______________________________
Name: Barry Naum
Title: Spilman Thomas & Battle, PLLC
Counsel to Walmart Inc.

MONTANA-DAKOTA UTILITIES CO.

BEFORE THE NORTH DAKOTA PUBLIC SERVICE COMMISSION

CASE NO. PU-22___

PREPARED DIRECT TESTIMONY OF

ANN E. BULKLEY

Q1. Please state your name and business address

A1. My name is Ann E. Bulkley. My business address is One Beacon Street, Suite 2600, Boston, Massachusetts 02108.

Q2. What is your position with The Brattle Group ("Brattle")?

A2. I am employed by The Brattle Group ("Brattle") as a Principal.

Q3. On whose behalf are you submitting this testimony?

A3. I am submitting Direct Testimony before the North Dakota Public Service Commission ("Commission") on behalf of Montana-Dakota Utilities Co. My testimony addresses the regulated electric utility operations of Montana-Dakota Utilities Co. within North Dakota ("Montana-Dakota" or the "Company").

Q4. Please describe your background and professional experience in the energy and utility industries.

A4. I hold a Bachelor's degree in Economics and Finance from Simmons College and a Master's degree in Economics from Boston University, with more than 25 years of experience consulting to the energy industry. I have provided testimony regarding financial matters, including the cost of capital, before multiple regulatory agencies. I have advised numerous energy and utility clients on a wide range of financial and economic issues with primary concentrations in valuation and utility rate matters. Many of these assignments have included the determination of the cost of capital for valuation and ratemaking purposes. A summary of my professional and educational background is presented in Exhibit No. ___ (AEB-2), Schedule 1.

Q5. Have you testified before any regulatory authorities?

A5. Yes. A list of proceedings in which I have provided testimony is provided in Exhibit No. ___ (AEB-2), Schedule 1.

I. PURPOSE AND OVERVIEW OF DIRECT TESTIMONY

Q6. What is the purpose of your Direct Testimony?

A6. The purpose of my Direct Testimony is to present evidence and provide a recommendation regarding the Montana-Dakota's return on equity ("ROE")[1] for its electric utility operations to be used for ratemaking purposes. I also address the appropriateness of the Company's proposed capital structure. My analyses and recommendations are supported by the data presented in Exhibit No. ___(AEB-2), Schedules 2 through 11, which were prepared by me or under my direction.

Q7. Please provide a brief overview of the analyses that led to your ROE recommendation.

A7. As discussed more in Section VI in developing my ROE recommendation, I applied the Constant Growth Discounted Cash Flow ("DCF") model, the Capital Asset Pricing Model ("CAPM"), the Empirical Capital Asset Pricing Model ("ECAPM"), and the Risk Premium approach. My recommendation also takes into consideration: (1) the regulatory environment in which the Company operates; (2) the Company's customer concentration;

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[1] Throughout my direct testimony, I interchangeably use the terms "ROE" and "cost of equity".

and (3) flotation costs. While I did not make any specific adjustments to my ROE estimates for any of these factors, I did take them into consideration in aggregate where the Company's ROE falls within the range of analytical results. Finally, I consider the Company's proposed capital structure as compared to the capital structures of the proxy companies.

Q8. How is the remainder of your Direct Testimony organized?

A8. Section II provides a summary of my analyses and conclusions. Section III reviews the regulatory guidelines pertinent to the development of the cost of capital. Section IV discusses current and projected capital market conditions and the effect of those conditions on Montana-Dakota's cost of equity. Section V explains my selection of proxy group of electric utilities. Section VI describes my analyses and the analytical basis for the recommendation of the appropriate ROE for Montana-Dakota. Section VII provides a discussion of specific regulatory, business, and financial risks that have a direct bearing on the ROE to be authorized for the Company in this case. Section VIII discusses the capital structure of the Company as compared with the proxy group. Section IX presents my conclusions and recommendations for the market cost of equity.

II. SUMMARY OF ANALYSIS AND CONCLUSIONS

Q9. Please summarize the key factors considered in your analyses and upon which you base your recommended ROE.

A9. My analyses and recommendations considered the following:

- The *Hope* and *Bluefield* decisions[2, 3] that established the standards for determining a fair and reasonable allowed ROE, including consistency of the allowed return with other businesses having similar risk, adequacy of the return to provide access to capital and support credit quality, and that the end result must lead to just and reasonable rates.
- The effect of current and projected capital market conditions on investors' return requirements.
- The results of several analytical approaches that provide estimates of the Company's cost of equity.
- The Company's regulatory, business, and financial risks relative to the proxy group of comparable companies and the implications of those risks in arriving at the appropriate ROE.

Q10. Please explain how you considered those factors.

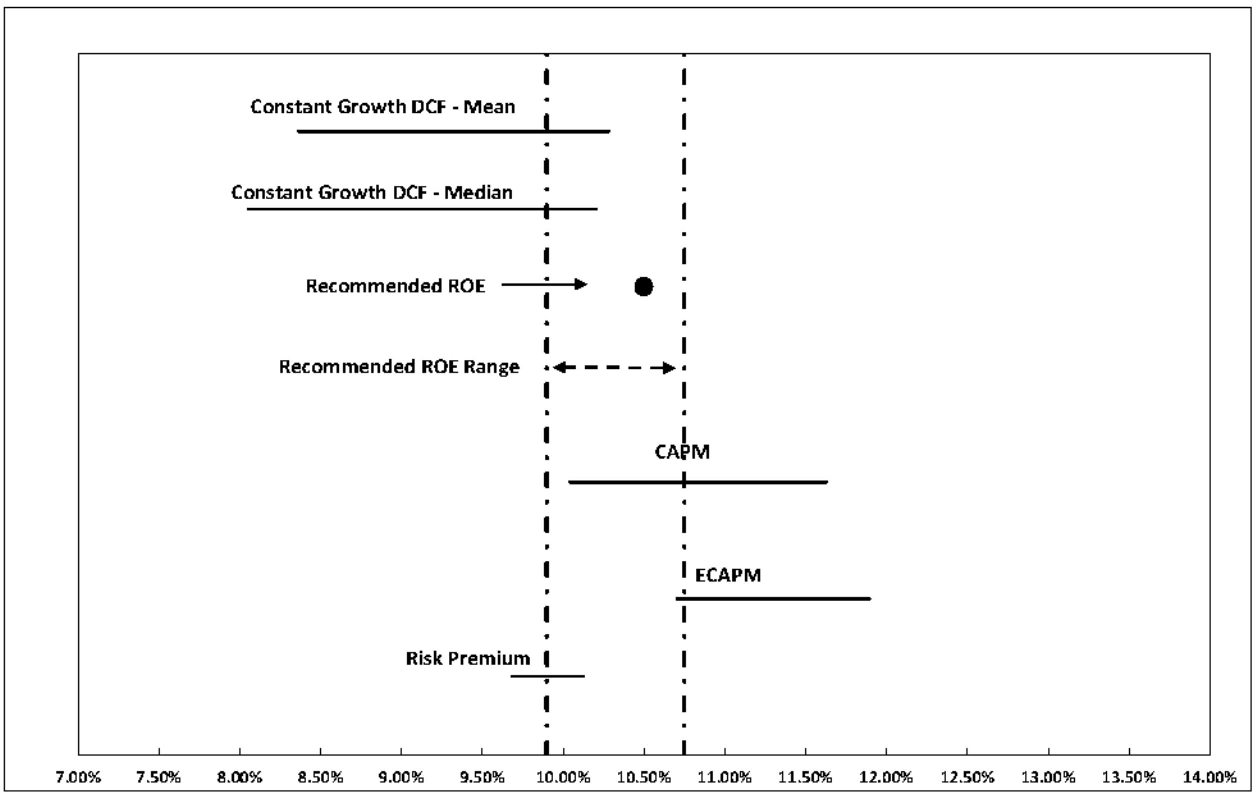
A10. I have relied on several analytical approaches to estimate Montana-Dakota's cost of equity based on a proxy group of publicly traded companies. As shown in Figure 1, those ROE estimation models produce a wide range of results. My conclusion as to where within that range of results Montana-Dakota's ROE falls is based on Montana-Dakota's business and financial risk relative to the proxy group. While my proxy group is generally comparable to Montana-Dakota, Montana-Dakota faces higher risk than the group. In order for Montana-Dakota to compete for capital within the proxy companies, those additional risk factors should be acknowledged and reflected in Montana-Dakota's ROE.

[2] U.S. Supreme Court, *Bluefield Water works & Improvement Company v. Public Service Commission of West Virginia*, 262 U.S. 679, 693 (1923).
[3] U.S. Supreme Court, *Federal Power Commission v. Hope Natural Gas Company*, 320 U.S. 591, 603 (1944).

Q11. Please summarize the ROE estimation models that you considered to establish the range of ROEs for Montana-Dakota.

A11. I considered the results of the Constant Growth DCF model, the Capital Asset Pricing Model ("CAPM"), the Empirical CAPM and the Bond Yield Plus Risk Premium methodology. Figure 1 summarizes the range of results established using each of these estimation methodologies.

Figure 1: Summary of Cost of Equity Analytical Results



As shown in Figure 1, (and in Exhibit No.___(AEB-2), Schedule 2), the range of results produced by the ROE estimation models is wide. While it is common to consider multiple models to estimate the cost of equity, it is particularly important when the range of results varies considerably across methodologies. As a result, my ROE recommendation considers the range of results of the Constant Growth DCF model, as well as the results of the CAPM, ECAPM, and Bond Yield Plus Risk Premium analyses. My ROE recommendation also considers Montana-Dakota's company-specific risk factors and current and prospective capital market conditions.

Q12. What is your recommended ROE for Montana-Dakota?

A12. Considering the analytical results presented in Figure 1, as well as the level of regulatory, business, and financial risk faced by Montana-Dakota's electric operations in North Dakota relative to the proxy group, I believe a range from 9.90 to 10.75 percent is reasonable. Within that range, a return of 10.50 percent is reasonable. This recommendation reflects the range of results for the proxy group companies, the relative risk of Montana-Dakota's electric operations in North Dakota as compared to the proxy group, and current capital market conditions.

Q13. Please summarize your analysis of the appropriate ratemaking capital structure for the Company.

A13. Based on the analysis presented in Section VIII of my testimony, I conclude that Montana-Dakota's proposed 50.79 percent common equity ratio for the rate year ending December 31, 2022 and 50.81 percent common equity ratio for the rate year ending December 31, 2023 are reasonable. To determine if Montana-Dakota's requested capital structure was reasonable, I reviewed the capital structures of the utility subsidiaries of the proxy companies. As shown in Exhibit No.___(AEB-2), Schedule 11, the results of that analysis demonstrate that the average equity ratios for the utility operating companies of the proxy group range from 46.83 percent to 59.91 percent, with an average of 52.35 percent. Comparing the recommended equity ratio to the proxy group demonstrates that the Company's requested equity ratio is significantly below the average equity ratio for the utility operating subsidiaries of the proxy group companies. Further, the Company's proposed equity ratio is reasonable considering the negative effects from Tax Cuts and Jobs Act of 2017 ("TCJA") on coverage ratios and increased capital expenditures on the cash flows and credit metrics of regulated utilities.

III. REGULATORY GUIDELINES

Q14. Please describe the guiding principles to be used in establishing the cost of capital for a regulatory utility.

A14. The United States Supreme Court's precedent-setting *Hope* and *Bluefield* cases established the standards for determining the fairness or reasonableness of a utility's allowed ROE. Among the standards established by the Court in those cases are: (1) consistency with other businesses having similar or comparable risks; (2) adequacy of the return to support credit quality and access to capital; and (3) that the end result, as opposed to the methodology employed, is the controlling factor in arriving at just and reasonable rates.[4]

Based on those recognized standards, the return authorized in this case should provide the Company with the opportunity to earn an ROE that is:

- Adequate to attract capital on reasonable terms, thereby enabling the Company to provide safe, reliable service;
- Sufficient to ensure the financial soundness of the Company's operations; and
- Commensurate with returns on investments in comparable risk enterprises.

[4] *Supra 3 and 4.*

The allowed ROE should enable the Company to finance capital expenditures on reasonable terms and optimize its financial flexibility over the period during which rates are expected to remain in effect.

Q15. Is fixing a fair rate of return just about protecting the utility's interests?

A15. No. As the court noted in *Bluefield*, a proper rate of return not only assures "confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit [but also] enable[s the utility] to raise the money necessary for the proper discharge of its public duties." Bluefield Waterworks & Imp. Co. vs. Pub. Serv. Commn. of W. Va., 262 US 679, 693, 43 S Ct 675, 679, 67 L Ed 1176 (1923). As the Court went on to explain in *Hope*, "[t]the rate-making process ... involves balancing of the investor and consumer interests." Fed Power Commn. v. Hope Nat. Gas Co., 320 US 591, 603 (1944).

Q16. Why is it important for a utility to be allowed the opportunity to earn an ROE that is adequate to attract capital at reasonable terms?

A16. An ROE that is adequate to attract capital at reasonable terms enables the Company to continue to provide safe, reliable electric utility service while maintaining its financial integrity. To the extent the Company has the opportunity to earn its market-based cost of capital, neither customers nor shareholders are disadvantaged.

Q17. Is a utility's ability to attract capital also affected by the ROEs that are authorized for other utilities?

A17. Yes. Utilities compete directly for capital with other investments of similar risk, which include other natural gas and electric utilities. Therefore, the ROE awarded to a utility sends an important signal to investors regarding whether there is regulatory support for financial integrity, dividends, growth, and fair compensation for business and financial risk. The cost of capital represents an opportunity cost to investors. If higher returns are available for other investments of comparable risk, investors have an incentive to direct their capital to those investments. Thus, an authorized ROE that is not in line with authorized ROEs for other natural gas and electric utilities, on a risk adjusted basis, can inhibit the utility's ability to attract capital for investment in North Dakota.

While Montana-Dakota is committed to investing the required capital to provide safe and reliable service, because Montana-Dakota is a subsidiary of MDU Resources, the Company competes with the other MDU Resources subsidiaries for discretionary investment capital. In determining how to allocate its finite discretionary capital resources, it would be reasonable for MDU Resources to consider the authorized ROE of each of its subsidiaries.

Q18. What are your conclusions regarding regulatory guidelines and capital market expectations?

A18. It is important for the ROE authorized in this proceeding to take into consideration current and projected capital market conditions, as well as investors' expectations and requirements for both risks and returns. Further, in light of the Company's market and regulatory risks as discussed below, it is important that Montana-Dakota be afforded the opportunity to maintain a financial profile that will enable it to access the capital markets at reasonable rates.

IV. CAPITAL MARKET CONDITIONS

Q19. Why is it important to analyze capital market conditions?

A19. The ROE estimation models rely on market data that are either specific to the proxy group, in the case of the DCF model, or the expectations of market risk, in the case of the CAPM. The results of the ROE estimation models can be affected by prevailing market conditions at the time the analysis is performed. While the ROE that is established in a rate proceeding is intended to be forward-looking, the practitioner uses current and projected market data, specifically stock prices, dividends, growth rates and interest rates in the ROE estimation models to estimate the required return for the subject company.

As discussed in the remainder of this section, analysts and regulatory commissions have concluded that current market conditions have affected the results of the ROE estimation models. As a result, it is important to consider the effect of these conditions on the ROE estimation models when determining the appropriate range and recommended ROE to be determined for a future period. If investors do not expect current market conditions to be sustained in the future, it is possible that the ROE estimation models will not provide an accurate estimate of investors' required return during that rate period. Therefore, it is very important to consider projected market data to estimate the return for that forward-looking period.

Q20. What factors are affecting the cost of equity for regulated utilities in the current and prospective capital markets?

A20. The cost of equity for regulated utility companies is being affected by several factors in the current and prospective capital markets, including: 1) changes in monetary policy, 2) currently high inflation continuing into 2022, 3) increasing interest rates, and 4) volatile market conditions. These factors affect the assumptions used in the ROE estimation models. In this section, I discuss each of these factors and how it affects the models used to estimate the cost of equity for regulated utilities.

Q21. What effect do current and prospective market conditions have on the cost of equity for Montana-Dakota?

A21. As is discussed in more detail in the remainder of this section, the combination of persistently high inflation, the Federal Reserve's changes in monetary policy, and the dramatic shifts in market conditions resulting from political influences all contribute to an expectation of increased market risk and an increase in the cost of the investor-required return on equity. It is essential that these factors be considered in setting a forward-looking cost of equity. Inflation is currently at its highest level seen in approximately 40 years. Interest rates, which have increased from significantly from pandemic-related lows seen in 2020 are expected to continue to increase in direct response to the Federal Reserve's use of monetary policy. As discussed later herein, since there is a strong historical inverse correlation between interest rates and the share prices of utility stocks, it is reasonable to expect that investors' cost of equity is increasing. Because the cost of equity in this proceeding is being estimated for the period that the Company's rates will be in effect and because the cost of equity is expected to increase over the near-term for utilities, ROE estimates based in whole or in part on current market conditions will understate the ROE during the future period that the Company's rates will be in effect.

A. The Effect of Monetary Policy on Market Dynamics

Q22. Please summarize the monetary policy actions of the Federal Reserve in response to the economic effects of COVID-19.

A22. In response to the COVID-19 pandemic, the Federal Reserve:

- decreased the Federal Funds rate twice in March 2020, resulting in a target range of 0.00 percent to 0.25 percent;
- increased its holdings of both Treasury and mortgaged-back securities;
- started expansive programs to support credit to large employers – the Primary Market Corporate Credit Facility to provide liquidity for new issuances of corporate bonds; and the Secondary Market Corporate Credit Facility to provide liquidity for outstanding corporate debt issuances; and
- supported the flow of credit to consumers and businesses through the Term Asset-Backed Securities Loan Facility.

In addition, Congress also passed the Coronavirus Aid, Relief, and Economic Security ("CARES") Act in March 2020, the Consolidated Appropriations Act, 2021 in December 2020, and the American Rescue Plan Act in March 2021, which included $2.2. trillion, $900 billion, and $1.9 trillion, respectively, in fiscal stimulus aimed at also mitigating the economic effects of COVID-19. These expansive monetary and fiscal programs mitigated the economic effects of the COVID-19 pandemic and provided additional support as the economy recovers from the COVID-19 recession.

Q23. How did the accommodative monetary and fiscal policy affect the U.S. economy?

A23. The expansive monetary and fiscal policy programs resulted in a strong economic recovery in 2021 from the COVID-19 induced recessionary period in 2020. In fact, according to the Bureau of Economic Analysis, real GDP grew by 5.7 percent in 2021 driven primarily by a 7.9 percent increase in personal consumption expenditures.[5] Moreover, the unemployment rate decreased from a high of 14.7 percent in April 2020 to 3.9 percent as of December 2021.[6] Finally, as I will discuss in more detail below, the economic recovery has also included a substantial increase in inflation with the year-over-year ("YOY") change in the Consumer Price Index ("CPI") at 8.56 percent in March 2022. The strong economic recovery along with the increase in inflation has resulted in the Federal Reserve normalizing monetary policy and removing the accommodative policy programs that it used to mitigate the effect of COVID-19.

Q24. Is the Federal Reserve currently normalizing monetary policy?

A24. Yes. In response to the significant increase in inflation that will be discussed in more detail below, the Federal Reserve is currently pursuing an aggressive normalization of monetary policy. As of the May 4, 2022 meeting, the Federal Reserve:

- Completed its taper of Treasury bond and mortgage-backed securities purchases[7];
- Increased the target federal funds rate from 0.00 – 0.25 percent to 0.25 – 0.50 percent at the March 16, 2022 meeting[8] and then from 0.25 – 0.50 percent to 0.75 to 1.00 percent at the May 4, 2022 meeting[9];
- Forecasted a total of seven rate increases in 2022 and four rate increases in 2023 which resulted a median forecast of the federal funds rate of 1.9 percent and 2.8 percent, respectively[10];
- Will begin reducing its holdings of Treasury and mortgage-backed securities on June 1, 2022.[11] The Federal Reserve will reduce the size of its balance sheet by

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[5] Source: Bureau of Economic Analysis, News Release, February 24, 2022, at 8.
[6] Source: Bureau of Labor Statistics. https://data.bls.gov/timeseries/LNS14000000
[7] Source: Federal Reserve Bank of New York, https://www.newyorkfed.org/markets/domestic-market-operations/monetary-policy-implementation/treasury-securities/treasury-securities-operational-details#monthly-details.
[8] Source: Federal Reserve, Press Release, (Mar. 16, 2022).
[9] Source: Federal Reserve, Press Release, (May 4, 2022).
[10] Federal Reserve, Summary of Economic Projections, March 16, 2022, at 2.
[11] Source: Federal Reserve, Press Release, (May 4, 2022).

only reinvesting principal payments on owned securities after the total amount of payments received exceeds a defined cap. For Treasury Securities, the cap will be set at $30 billion per month for the first three months and $60 billion per month after the first three months while for mortgage-backed securities the cap will be set at $17.5 billion per month for the first three months and $35 billion per month after the first three months.[12]

Q25. What is the market response to the recent FOMC meetings?

A25. The market response is an expectation that interest rates will increase to address inflation. The CME Group calculates investors' views regarding the probability of the target federal funds rate range at upcoming Federal Reserve meetings based on federal funds rate futures contracts. Figure 2 below contains investors' expectations regarding the level of the federal funds rate at each of the next eleven meetings as of May 5, 2022. As shown in Figure 2, investors expect the Federal Reserve to increase the federal funds rate at a faster pace than what was indicated in the forecasts released at the Federal Reserve's March 16, 2022 meeting. For example, as shown in Figure 2, according to the CME Group, there is a 53.6 percent probability[13] that the target federal funds rate range is 3.00 percent to 3.25 percent as of December 2022 which is greater than the Federal Reserve's median forecast of 1.90 percent. In particular:

- Citigroup, Inc. is now projecting 50 basis point increases at the next four FOMC meetings followed by 25 basis point increases in October and December, reaching 3.50 to 3.75 percent.
- Bank of America Corp. is projecting a 25 basis point increase in May, followed by two 50 basis point increases, and then a 25 basis point increase at each subsequent meeting through May 2023, reaching a range of 3.00 to 3.25 percent.

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[12] Source: Federal Reserve, Plans for Reducing the Size of the Federal Reserve's Balance Sheet, Press Release, (May 4, 2022).

[13] The probability of a rate hike is calculated by adding the probabilities of all target rate levels above the current target rate.

- Goldman Sachs Group Inc. is projecting 50 basis point increases at the May and June FOMC meetings with a 25 basis point increase at the four remaining meetings in 2022.[14]Moody's recently noted that the financial markets are close to fully pricing in three 50-basis point rate increases this year.[15]

Thus, investors expect that the Federal Reserve will pursue more aggressive monetary policy than indicated at the March 16 meeting to combat persistent high levels of inflation.

Figure 2: Investor Expectation of Future Federal Funds Rate Increases[16]

MEETING PROBABILITIES															
MEETING DATE	125-150	150-175	175-200	200-225	225-250	250-275	275-300	300-325	325-350	350-375	375-400	400-425	425-450	450-475	475-500
6/15/2022	12.9%	87.1%	0.0%	0.0%											
7/27/2022	0.0%	0.0%	12.8%	86.9%	0.3%	0.0%	0.0%	0.0%	0.0%						
9/21/2022	0.0%	0.0%	0.0%	6.8%	52.1%	41.0%	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	
11/2/2022	0.0%	0.0%	0.0%	0.0%	5.4%	43.0%	43.2%	8.3%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
12/14/2022	0.0%	0.0%	0.0%	0.0%	0.0%	5.2%	41.2%	43.2%	10.0%	0.4%	0.0%	0.0%	0.0%	0.0%	0.0%
2/1/2023	0.0%	0.0%	0.0%	0.0%	0.0%	1.8%	17.4%	41.9%	31.9%	6.8%	0.3%	0.0%	0.0%	0.0%	0.0%
3/15/2023	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.8%	8.8%	28.4%	37.4%	20.6%	3.8%	0.2%	0.0%	0.0%
5/3/2023	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	1.5%	10.5%	29.2%	36.0%	19.2%	3.5%	0.1%	0.0%	0.0%
6/14/2023	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.8%	6.4%	20.7%	32.9%	26.8%	10.6%	1.7%	0.1%
7/26/2023	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.7%	5.5%	18.4%	30.9%	27.8%	13.2%	3.1%	0.3%

Q26. Has the Federal Reserve provided support for investors' expectations regarding the federal funds rate since the Federal Reserve's projections were released at the March 2022 meeting?

A26. Yes. Specifically, at the May 4, 2022 meeting, the Federal Reserve increased the federal funds rate 50 basis points from 0.25 – 0.50 percent to 0.75 to 1.00 percent and at his press

[14] Lanman, Scott, "Wall Street Lifts Fed Forecasts; Citi See Four Half-Point Hikes," Bloomberg, March 25, 2022.

[15] Moody's Analytics, Weekly Market Outlook, "Fed Girds for Stagflation", April 14, 2022.

[16] CME Group; FedWatch tool as of May 5, 2022.

conference, Federal Reserve Chairman Powell noted that additional 50 basis point increases may be needed at the next couple of meetings:

> "[w]e are on a path to move our policy rate expeditiously to more normal levels. Assuming that economic and financial conditions evolve in line with expectations, there is a broad sense on the Committee that additional 50 basis point increases should be on the table at the next couple of meetings. We will make our decisions meeting by meeting, as we learn from incoming data and the evolving outlook for the economy. And we will continue to communicate our thinking as clearly as possible. Our overarching focus is using our tools to bring inflation back down to our 2 percent goal."[17]

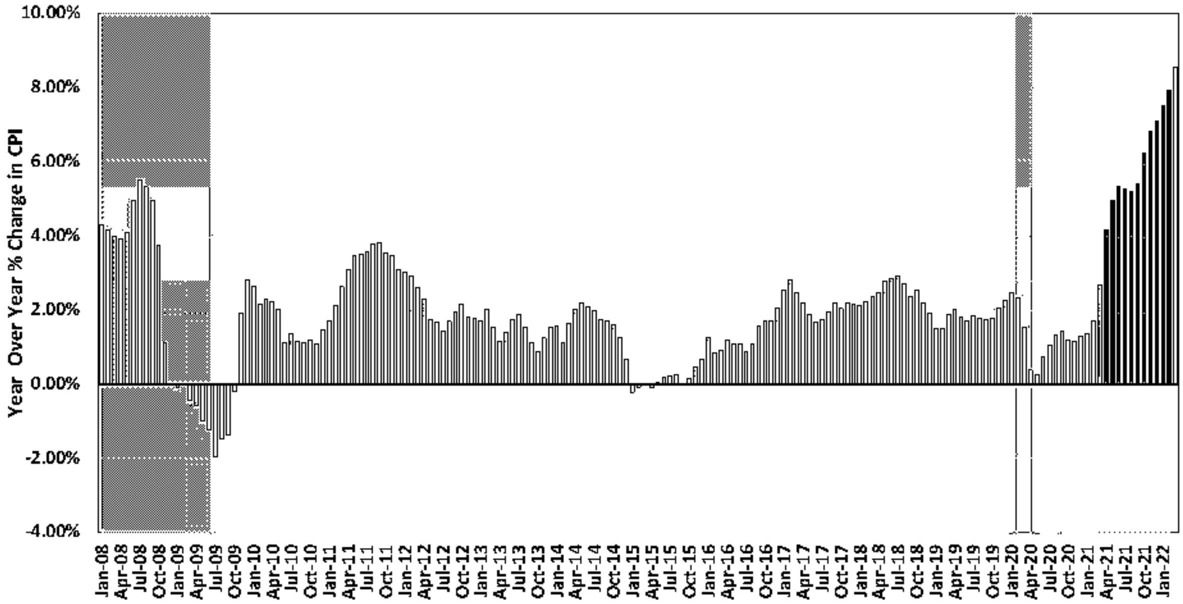
B. Inflationary Expectations in Current and Projected Market Conditions

Q27. Is the increase in inflation significant?

A27. Yes. As shown in Figure 3, the YOY change in the Consumer Price Index ("CPI") published by the Bureau of Labor statistics has increased steadily over the past year rising from 1.37 percent in January 2021 to 8.56 percent in March 2022. The 8.56 percent YOY in the CPI in March 2022 is the largest 12-month increase since 1981 and significantly greater than any level seen since January 2008.

[17] Source: Federal Reserve, Transcript of Chair Powell's Press Conference Opening Statement, (May 4, 2022), at 3.

Figure 3: Consumer Price Index – YOY Percent Change – January 2008 – March 2022[18]



Q28. What are the expectations for inflation over the near-term?

A28. In his press conference following the May 4, 2022 meeting, Chairman Powell noted that "[i]nflation is much too high and we understand the hardship it is causing, and we're moving expeditiously to bring it back down".[19] Therefore, investors expect inflation to remain elevated over the near-term. One measure of investors' expectations regarding inflation is the breakeven inflation rate calculated as the spread between the yield on a Treasury bond and the yield on a Treasury Inflation-Protected bond, since a Treasury Inflation-Protected bond would account for the effect of inflation. The maturity of the bond selected would then reflect investors' views of inflation during the holding period of the bond. For example, the 10-year breakeven inflation rate calculated as the spread between the 10-year Treasury bond yield and the 10-year Treasury Inflation-Protected bond yield

[18] Source: Bureau of Labor Statistics, shaded area indicates a recession.
[19] Source: Federal Reserve, Transcript of Chair Powell's Press Conference Opening Statement, (May 4, 2022), at 1.

would reflect investors' expectations of inflation over the next 10 years. As shown in Figure 4 below, the 10-year breakeven inflation rate is currently greater than any level seen since January 2003. Furthermore, the 10-year breakeven inflation rate as of March 31, 2022 was 2.84 percent indicating that investors expect inflation will remain well above the Federal Reserve's 2 percent target over the next 10 years. There are many factors as to why inflation is expected to remain elevated, Kiplinger recently noted a few factors including supply shortages due to COVID-19 and Russia's war in Ukraine which led them to forecast an inflation rate of 5.5 percent for 2022:

> The surge in gasoline prices in March boosted annual inflation to 8.5%, the highest in 40 years. This is likely to be the peak for the year, with inflation beginning to ease soon. But it will end the year at a still high 5.5%. The inflation rate will ease because oil prices are coming down off their peaks, though they remain high. Even if the war in Ukraine ends soon, disincentives to imports of Russian oil and gas will likely continue for quite a while. Ukraine is also a major world producer of wheat. Those prices have surged 40% this year. Other grain and meat prices are also at double or triple their previous long-term averages. Plus, there are expectations of continued upward price pressures on rent, housing costs and prices of many services, as the pandemic eases and demand rebounds.[20]

[20] Payne, David, "Inflation Rate Will Ease, But Prices Will Remain High," Kiplinger, April 13, 2022.

Figure 4: 10-year Breakeven Inflation Rate – Janaury 2003 – March 2022[21]

C. The Effect of Inflation on Interest Rates and the Investor-Required Return

Q29. What effect will inflation have on long-term interest rates?

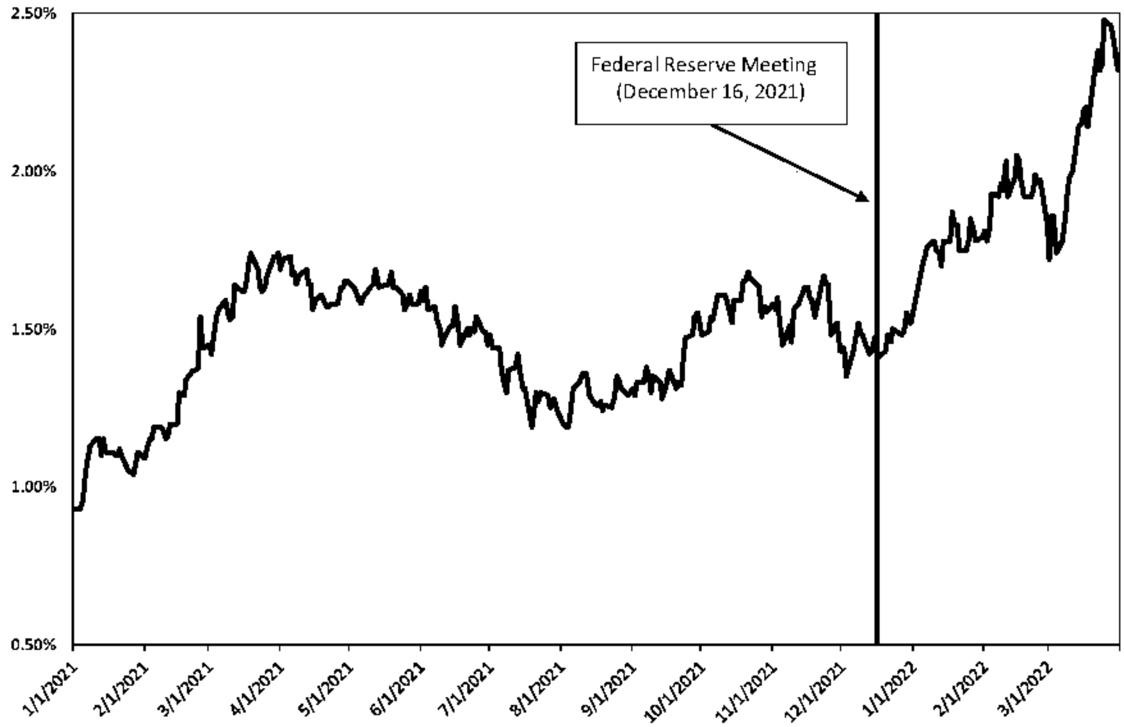
A29. Inflation and the Federal Reserve's normalization of monetary policy will likely result in increases in long-term interest rates. Specifically, inflation reduces the purchasing power of the future interest payments an investor expects to receive over the duration of the bond. This risk increases the longer the duration of the bond. As a result, if investors expect increased levels of inflation, they will require higher yields to compensate for the increased risk of inflation, which means interest rates will increase.

[21] Federal Reserve Bank of St. Louis, 10-Year Breakeven Inflation Rate [T10YIE], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/T10YIE, March 31, 2022.

Q30. Have the yields on long-term government bonds increased in response to inflation and the Federal Reserve's normalization of monetary policy?

A30. Yes, they have. As shown in Figure 5, since the Federal Reserve's December 2021 meeting, as the process of normalizing monetary policy has accelerated to respond to inflation, the yield on the 10-year Treasury bond has increased over 90 basis points from 1.47 percent on December 15, 2021 to 2.38 percent on April 1, 2022. The increase is due to the Federal Reserve's announcements at the December 2021, January 2022 and March 2022 meetings and the continued increased levels of inflation that are now expected to persist much longer than the Federal Reserve and investors had originally projected.

Figure 5: 10-Year Treasury Bond Yield – Janaury 2021 – March 2022[22]



Q31. What have equity analysts said about long-term government bond yields?

A31. Several equity analysts have noted that they expect economic conditions to continue to improve and thus the yields on long-term government bonds to continue to increase through the end of 2022. As shown in Figure 6, according to various equity analysts, the yield on the 10-year Treasury Bond is expected to range from 2.70 percent to 2.80 percent in 2022, and the current 30-day average yield on the 10-year Treasury Bond as of March 31, 2022 is already 2.08 percent and was trading close to 2.90 percent as of April 29, 2022.

[22] S&P Capital IQ Pro.

Figure 6: Equity Analysts Forecast of the 10-year Treasury Yield

	Actual
30-Day Average as of March 31, 2022	2.08%
	2022 Forecast
Credit Suisse[23]	2.70%
Goldman Sachs[24]	2.70%
Blue Chip Financial Forecasts (Consensus Estimate)[25]	2.80%
BMO Economics[26]	2.70%

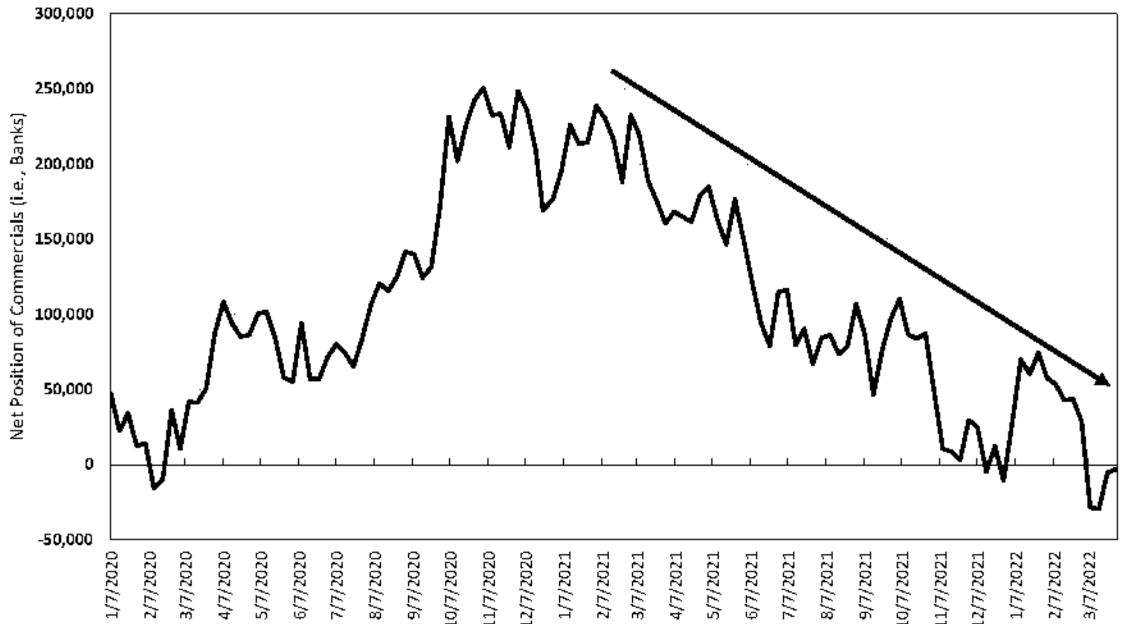
Q32. Have you considered any additional indicators that may imply long-term interest rates are expected to increase?

A32. Yes, I have. I considered the net position of commercials (i.e., banks) in U.S. Treasury Bond futures contracts as reported in the Commitment of Traders ("COT") Report produced by the Commodity Futures Trading Commission ("CFTC"). A net position is defined as the total number of long positions in a futures contract minus the total number of short positions in a futures contract. A long position means that an investor agrees to purchase an asset in the future at a specified price today and therefore profits if the price of the underlying asset increases. Conversely, short position is when an investor agrees to sell an asset at a time in the future at a specified price today and profits if the price of the asset declines. Therefore, if banks are increasing the number of short positions and thus have a declining net position, the banks are assuming that the price of the asset will decline.

23 Reuters, "U.S. 10-year yield to hit 2.7% this year - Credit Suisse," February 16, 2022.
24 Worrachate, Anchalee. "Goldman Sees Higher U.S. Treasury Yields, Curve Inversion." Bloomberg.com, March 25, 2022.
25 Blue Chip Financial Forecasts, Vol. 41, No. 4, April 1, 2022, at 2.
26 BMO Economics, "North American Outlook: Out of the Pandemic and Into the Fire," March 31, 2022.

As shown in Figure 7, the net position of banks in U.S. Treasury Bonds has been decreasing since the end of 2020. Therefore, banks are forecasting a decrease in the price of long-term government bonds and thus the yields (which are inversely related to the price) to increase over the near-term.

Figure 7: Commitment of Traders Report – Net Position of Commercials (i.e., Banks) in U.S. Treasury Bond Futures Contracts[27]



D. Expected Performance of Utility Stocks and the Investor-Required ROE on Utility Investments

Q33. Are utility share prices correlated to changes in the yields on long-term government bonds?

A33. Yes, interest rates and utility share prices are inversely correlated which means, for example, that an increase in interest rates will result in a decline in the share prices of

[27] Commitment of Traders Report, as of March 31, 2022 - https://www.cftc.gov/MarketReports/CommitmentsofTraders/HistoricalCompressed/index.htm

utilities. For example, Goldman Sachs and Deutsche Bank recently examined the sensitivity of share prices of different industries to changes in interest rates over the past five years. Both Goldman Sachs and Deutsche Bank found that utilities had one of the strongest negative relationships with bond yields (i.e., increases in bond yields resulted in the decline of utility share prices).[28]

Q34. Have electric utility stock prices recently increased?

A34. Yes. Utility stock prices had trended down as interest rates moved higher; however, as a result of the political turmoil associated with the war in Ukraine, investors have recently returned to utility stocks as a safe haven seeking to lower risk, resulting in higher electric utility stock prices and thus lower dividend yields.

Q35. How do equity analysts expect the utilities sector to perform in an increasing interest rate environment?

A35. Even with the recent increase in electric utility stock prices, equity analysts project that utilities are expected to continue to underperform the broader market as interest rates increase. For example, in its most recent Big Money poll, which closed in mid-April and surveyed 112 money managers regarding the outlook for the next twelve months, the professional investors selected the utility sector as the least attractive of all industries for investment.[29] In addition, Fidelity recently recommended underweighting the utility sector and noted that it classified the sector as underweight due to a combination of "poor

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28 Lee, Justina. "Wall Street Is Rethinking the Treasury Threat to Big Tech Stocks." Bloomberg.com, 11 Mar. 2021, www.bloomberg.com/news/articles/2021-03-11/wall-street-is-rethinking-the-treasury-threat-to-big-tech-stocks.

29 Jasinski, Nicholas, Bearish Now, Bullish Later: How Investors Are Sizing Up Stocks, Barron's, updated April 24, 2022.

fundamentals and expensive valuations".[30] Furthermore, regarding the recent increase in utility share prices, Fidelity stated that:

> Energy stocks have garnered a lot of attention, but in February utilities was the only sector with monthly returns in the 90th percentile of its historical range. In the past, powerful utilities rallies have signaled investors getting too defensive. The market typically has gained, and utilities have underperformed, in 12-month periods after top-decile monthly relative returns for the sector.[31]

Q36. Have you reviewed any market indicators that may imply that utilities will underperform over the near-term?

A36. Yes, I have. As discussed above, the utility sector is considered a "bond proxy" or a sector in which investors are attracted as a safe haven alternative to bonds, and utility stock prices are therefore inversely related to changes in interest rates. For example, the utility sector tends to perform well when interest rates are low since the dividend yields for utilities offer investors the prospect of higher returns when compared to the yields on long-term government bonds. Conversely, the utility sector underperforms as the yields on long-term government bonds increase and the spread between the dividend yields on utility stocks and the yields on long-term government bonds decreases. Therefore, I examined the yield spread between the dividend yields of utility stocks and the yields on long-term government bonds from January 2010 through April 2022. I selected the dividend yield on the S&P Utilities Index as the measure of the dividend yields for the utility sector and the yield on the 10-year Treasury Bond as the estimate of the yield on long-term government bonds. As shown in Figure 8, the yield spread as of April 8, 2022 was 0.00 percent indicating that yield on the 10-year Treasury Bond is equivalent to the dividend yield for the S&P Utilities

[30] Fidelity, "Top sectors to watch in Q2," May 4, 2022.

[31] *Ibid*

Index which is the smallest yield spread since at least 2010. Furthermore, the current yield spread of 0.00 percent is well below the long-term average since January 2010 of 1.47 percent. Given that the yield spread is currently well below the long-term average as well as the expectation that interest rates will continue to increase, it is reasonable to conclude that utility sector will underperform over the near-term. This is because investors that purchased utility stocks as an alternative to the low yields on long-term government bonds will begin to rotate back into government bonds as the yields on long-term government bonds continue to increase thus resulting in a decrease in the share prices of utilities.

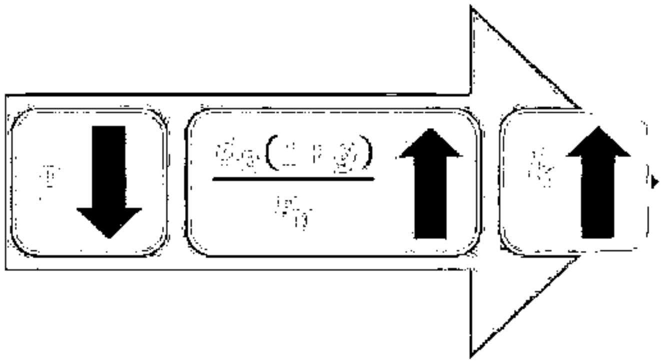
Figure 8: Yield Spread between the Dividend Yield on the S&P Utilities Index and the Yield on the 10-year Treasury Bond – January 2010 – April 2022[32]

Q37. What is the significance of the inverse relationship between interest rates and utility share prices in the current market?

A37. As discussed above, the Federal Reserve is currently normalizing monetary policy in response to inflation which is expected to increase long-term government bond yields. If interest rates increase as expected, then the share prices of utilities will decline. If the prices of utility stocks decline, then the DCF model, which relies on historical averages of share prices, is likely to understate the cost of equity. For example, Figure 9, below summarizes the effect of price on the dividend yield in the Constant Growth DCF model.

32 Bloomberg Professional and S&P Capital IQ Pro.

Figure 9: The Effect of a Decline in Stock Prices on the Constant Growth DCF Model



A decline in stock prices will increase the dividend yields and thus the estimate of the ROE produced by the Constant Growth DCF model. Therefore, this expected change in market conditions supports consideration of the range of ROE results produced by the mean to mean-high DCF results since the mean DCF results would likely understate the cost of equity during the period that the Company's rates will be in effect. Moreover, prospective market conditions warrant consideration of other ROE estimation models such as the CAPM and ECAPM, which may better reflect expected market conditions. For example, two out of three inputs to the CAPM (i.e., the market risk premium and risk-free rate) are forward-looking.

Q38. Have state regulatory commissions considered market events and the utility's ability to attract capital in determining the equity return?

A38. Yes. In a recent rate case for Consumers Energy Company, the Michigan Public Service Commission ("Michigan PSC") noted that it is important to consider how a utility's access to capital could be affected in the near-term as a result of market reactions to global events like those that have occurred in the recent past. Specifically, the Michigan PSC stated that:

> [i]n setting the ROE at 9.90%, the Commission believes there is an opportunity for the company to earn a fair return during this period of atypical market conditions. This decision also reinforces the belief, as stated in the Commission's March 29 order, "that customers do not benefit from a lower ROE if it means the utility has difficulty accessing capital at attractive terms and in a timely manner." These conditions still hold true based on the evidence in the instant case. The fact that other utilities have been able to access capital despite lower ROEs, as argued by many intervenors, is also a relevant consideration. *It is also important to consider how extreme market reactions to global events, as have occurred in the recent past, may impact how easily capital will be able to be accessed during the future test period should an unforeseen market shock occur. The Commission will continue to monitor a variety of market factors in future rate cases to gauge whether volatility and uncertainty continue to be prevalent issues that merit more consideration in setting the ROE.*[33]

The Michigan PSC references "global events" and the overall effect the events could have on the ability of a utility to access capital. Consistent with the Michigan PSC's views, it is important to consider current market conditions and the impact of those conditions on the access to and cost of capital, and to position utilities to be able to maintain access in rapidly changing market conditions.

E. Conclusion

Q39. What are your conclusions regarding the effect of current market conditions on the cost of equity for the Company?

A39. Over the near-term, investors expect long-term interest rates to increase in response to continued elevated levels of inflation and the Federal Reserve's normalization of monetary policy. Because the share prices of utilities are inversely correlated to interest rates, an increase in long-term government bond yields will likely result in a decline in utility share prices, which is the reason a number of equity analysts expect the utility sector to

[33] Michigan Public Service Commission Order, Cause No. U-20697, Consumers Energy Company, at 165 (Dec. 17, 2020).

underperform over the near-term. The expected underperformance of utilities means that DCF models using recent historical data likely underestimate investors' required return over the period that rates will be in effect. This change in market conditions also supports the use of other ROE estimation models such as the CAPM and the ECAPM, which may better reflect expected market conditions.

V. PROXY GROUP SELECTION

Q40. Why have you used a group of proxy companies to estimate the Cost of Equity for Montana-Dakota?

A40. In this proceeding, we are focused on estimating the Cost of Equity for Montana-Dakota's electric utility operations. Since the Cost of Equity is a market-based concept, and given that Montana-Dakota does not make up the entirety of a publicly traded entity, it is necessary to establish a group of companies that are both publicly traded and comparable to Montana-Dakota in certain fundamental business and financial respects to serve as its "proxy" in the ROE estimation process.

Even if Montana-Dakota's electric utility operations in North Dakota did constitute the entirety of a publicly-traded entity, it is possible that transitory events could bias its market value over a given period of time. A significant benefit of using a proxy group is that it moderates the effects of unusual events that may be associated with any one company. The proxy companies used in my analyses all possess a set of operating and risk characteristics that are substantially comparable to the Company, and thus provide a reasonable basis to derive and estimate the appropriate ROE for Montana-Dakota.

Q41. Please provide a brief profile of Montana-Dakota.

A41. Montana-Dakota Utilities Co. is a wholly owned subsidiary of MDU Resources. It provides regulated retail natural gas and/or electric service to parts of Montana, North Dakota, South Dakota, and Wyoming. The Company's electric utility operations in North Dakota serves approximately 93,344 residential, general, lighting and municipal customers. As of December 31, 2021, the Company's net utility electric plant in North Dakota was approximately 903.6 million.[34] In addition, the Company had total electric sales in North Dakota in 2021 of approximately 2,075,391,863 MWh, composed of 35.94 percent residential, 61.02 percent general and 3.04 percent lighting and municipal customers.[35] For the Company's parent entity, MDU Resources, North Dakota accounted for 64.00 percent of its total electric retail sales revenue in 2021, while Montana operations were 22.00 percent, South Dakota was 5.00 percent, and Wyoming was 9.00 percent.[36] Montana-Dakota Utilities Co. currently has an investment-grade long-term rating of BBB+ (Outlook: Stable) from S&P and BBB+ (Outlook: Stable) from Fitch[37].

Q42. How did you select the companies included in your proxy group?

A42. I began with the group of 36 companies that *Value Line* classifies as electric utilities and applied the following screening criteria to select companies that:

- pay consistent quarterly cash dividends because such companies cannot be analyzed using the Constant Growth DCF model.

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[34] Montana-Dakota Utilities Co. 2021 Annual Report to the North Dakota Public Service Commission, at Intrastate Return on Equity, at 2.

[35] Montana-Dakota Utilities Co. 2021 Annual Report to the North Dakota Public Service Commission, at Miscellaneous, at 1.

[36] MDU Resources Group, Inc., Form 2021 SEC Form 10-K at 12.

[37] S&P and Fitch Ratings accessed March 31, 2022.