

BEFORE THE  
NEW YORK STATE  
PUBLIC SERVICE COMMISSION

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Proceeding on Motion of the Commission as to the  
Rates, Charges, Rules and Regulations of  
New York State Electric & Gas Corporation  
for Electric Service

Case 09-E-0715

Proceeding on Motion of the Commission as to the  
Rates, Charges, Rules and Regulations of  
New York State Electric & Gas Corporation  
for Gas Service

Case 09-G-0716

Proceeding on Motion of the Commission as to the  
Rates, Charges, Rules and Regulations of  
Rochester Gas and Electric Corporation  
for Electric Service

Case 09-E-0717

Proceeding on Motion of the Commission as to the  
Rates, Charges, Rules and Regulations of  
Rochester Gas and Electric Corporation  
for Gas Service

Case 09-G-0718  
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**REBUTTAL TESTIMONY OF THE  
REVENUE REQUIREMENTS PANEL**

**Steven R. Adams  
Peter Cohen  
Fausto Gentile  
Joseph J. Syta  
Joseph V. Passarelli  
Ernest S. Walker III**

February 12, 2010

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**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. Please state the names of the original members of this Revenue Requirements  
2 Panel (“Panel”).

3 A. We are Steven R. Adams and Joseph J. Syta.

4 Q. Are you the same Panel members that sponsored the Direct Testimony of the  
5 Revenue Requirements Panel on behalf of New York State Electric & Gas  
6 Corporation (“NYSEG” or the “Company”) and the Direct Testimony of the  
7 Revenue Requirements Panel on behalf of Rochester Gas and Electric  
8 Corporation (“RG&E”) in this proceeding?

9 A. Yes.

10 Q. Are any additional individuals joining the Panel?

11 A. Yes. Fausto Gentile, Peter Cohen, Joseph V. Passarelli, and Ernest S. Walker III  
12 have joined the Panel.

13 Q. Mr. Gentile, please state your current position and business address.

14 A. I am Assistant Controller for Iberdrola USA Management Corporation. My  
15 business address is 52 Farm View Drive, New Gloucester, Maine 04260.

16 Q. Please briefly summarize your educational background and work experience.

17 A. I received a Bachelors Degree from LeMoyne College in 1984. I began my utility  
18 career with NYSEG in 1985 and have worked primarily in the tax department in  
19 various roles since 1986.

20 Q. Have you previously testified in other proceedings before the New York State  
21 Public Service Commission (“Commission” or “PSC”) or any other state or  
22 federal regulatory agency or court?

23 A. Yes, I testified before the Commission in Case No. 05-E-1222.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. Mr. Cohen, please state your current position and business address.

2 A. I am Manager of Regulatory Economics for Iberdrola USA Management  
3 Company. My business address is 52 Farm View Drive, New Gloucester, Maine  
4 04106.

5 Q. Please briefly summarize your educational background and work experience.

6 A. I received a Bachelor of Science/Arts Degree in Finance from the University of  
7 Denver. I have been with the Company for approximately 6 years in the  
8 regulatory department. Prior to joining Iberdrola USA Management Company I  
9 had 10 years experience in corporate finance.

10 Q. Have you previously testified in other proceedings before the Commission or any  
11 other state or federal regulatory agency or court?

12 A. Yes, I testified before the Connecticut Department of Public Utility Control in the  
13 most recent rate case for Connecticut Natural Gas.

14 Q. Mr. Passarelli, please state your current position and business address.

15 A. I am Manager, Financial Planning, Iberdrola USA Management Company.

16 Q. Please briefly summarize your educational background and work experience.

17 A. I received a Bachelor of Science Degree in Accounting from the University of  
18 Scranton in 1982 and a Master of Business Administration Degree from  
19 Binghamton University in 1999. I have been certified as a Certified Public  
20 Accountant in New York and Pennsylvania, although I do not keep active status.

21 Q. Have you previously testified in other proceedings before the Commission or any  
22 other state or federal regulatory agency or court?

23 A. No.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. Mr. Walker, please state your current position and business address.

2 A. I am an independent consultant and for this project my business address is New  
3 York State Electric & Gas Corporation, 1387 Ithaca-Dryden Road, Ithaca, New  
4 York 14850.

5 Q. Please briefly summarize your educational background and work experience.

6 A. I have a Bachelor of Science Degree in Industrial Economics from Union College,  
7 Schenectady, New York. I was employed at NYSEG starting in 1970 and retired  
8 from NYSEG in 2009 after working for 39 years in various positions. My most  
9 recent position prior to becoming an independent consultant was Manager,  
10 Revenue Requirements, where I was responsible for revenue requirements at  
11 NYSEG and RG&E.

12 Q. Have you previously testified in other proceedings before the Commission or any  
13 other state or federal regulatory agency or court?

14 A. I have testified in RG&E's and NYSEG's last two rate proceedings. I have also  
15 testified before the Commission in most of NYSEG's major rate proceedings  
16 since 1978. I most recently testified before the Commission in Case 07-M-0906.

17 Q. Mr. Gentile, Mr. Cohen, Mr. Passarelli, and Mr. Walker, do you adopt the  
18 September 17, 2009 testimony of this Panel?

19 A. Yes.

20 Q. What is the overall purpose of your rebuttal testimony?

21 A. We will rebut revenue requirement adjustments described in the direct testimony  
22 of the New York State Department of Public Service Staff ("Staff"). The

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Companies are accepting some Staff revenue requirement adjustments, modifying  
2 and correcting some adjustments and rejecting others.

3 Q. Is the Panel sponsoring any exhibits in support of its rebuttal testimony?

4 A. Yes. The Panel is sponsoring the following exhibits:

Exhibit \_\_ (NYSEG Elec RRP-2) Rebuttal

Exhibit \_\_ (NYSEG Gas RRP-2) Rebuttal

Exhibit \_\_ (RG&E Elec RRP-2) Rebuttal

Exhibit \_\_ (RG&E Gas RRP-2) Rebuttal

Exhibit \_\_ (NYSEG Elec RRP-4) Rebuttal

Exhibit \_\_ (NYSEG Gas RRP-4) Rebuttal

Exhibit \_\_ (RG&E Elec RRP-4) Rebuttal

Exhibit \_\_ (RG&E Gas RRP-4) Rebuttal

Exhibit \_\_ (NYSEG RRP-5) Rebuttal

Exhibit \_\_ (RG&E RRP-5) Rebuttal

Exhibit \_\_ (NYSEG RRP-9) Rebuttal

Exhibit \_\_ (RG&E RRP-9) Rebuttal

Exhibit \_\_ (NYSEG RRP-10) Rebuttal

Exhibit \_\_ (RG&E RRP-10) Rebuttal

Exhibit \_\_ (NYSEG RRP-11) Rebuttal

Exhibit \_\_ (RG&E RRP-11) Rebuttal

Exhibit \_\_ (NYSEG/RG&E RRP-12) Rebuttal

Exhibit \_\_ (NYSEG RRP-13) Rebuttal

Exhibit \_\_ (RG&E RRP-13) Rebuttal

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

Exhibit \_\_ (NYSEG RRP-14) Rebuttal

Exhibit \_\_ (RG&E RRP-14) Rebuttal

Exhibit \_\_ (NYSEG RRP-15) Rebuttal

Exhibit \_\_ (RG&E RRP-15) Rebuttal

Exhibit \_\_ (NYSEG RRP-16) Rebuttal

Exhibit \_\_ (RG&E RRP-16) Rebuttal

Exhibit \_\_ (NYSEG RRP-17) Rebuttal

Exhibit \_\_ (RG&E RRP-17) Rebuttal

Exhibit \_\_ (NYSEG RRP-18) Rebuttal

Exhibit \_\_ (RG&E RRP-18) Rebuttal

Exhibit \_\_ (NYSEG RRP-19) Rebuttal

Exhibit \_\_ (RG&E RRP-19) Rebuttal

Exhibit \_\_ (NYSEG/RG&E RRP-20) Rebuttal

Exhibit \_\_ (NYSEG/RG&E RRP-21) Rebuttal

Exhibit \_\_ (NYSEG/RG&E RRP-22) Rebuttal

Exhibit \_\_ (NYSEG/RG&E RRP-23) Rebuttal

Exhibit \_\_ (NYSEG/RG&E RRP-24) Rebuttal

Exhibit \_\_ (NYSEG RRP-25) Rebuttal

Exhibit \_\_ (RG&E RRP-25) Rebuttal

Exhibit \_\_ (NYSEG RRP-26) Rebuttal

Exhibit \_\_ (RG&E RRP-26) Rebuttal

Exhibit \_\_ (NYSEG/RG&E RRP-27) Rebuttal

Exhibit \_\_ (NYSEG RRP-28) Rebuttal

Exhibit \_\_ (RG&E RRP-28) Rebuttal

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

Exhibit \_\_ (NYSEG RRP-29) Rebuttal

Exhibit \_\_ (RG&E RRP-29) Rebuttal

Exhibit \_\_ (NYSEG RRP-30) Rebuttal

Exhibit \_\_ (RG&E RRP-30) Rebuttal

Exhibit \_\_ (NYSEG RRP-31) Rebuttal

Exhibit \_\_ (RG&E RRP-31) Rebuttal

Exhibit \_\_ (NYSEG RRP-32) Rebuttal

1 Q. Did the Companies file a general update to their original rate case filings on  
2 December 4, 2009?

3 A. Yes. A general update was filed and served on all parties on behalf of RG&E and  
4 NYSEG. The Companies are submitting new revised revenue requirement  
5 exhibits with this rebuttal testimony.

6 Q. Please summarize your rebuttal revenue requirement rate increase amounts.

7 A. The Companies' rebuttal testimony produces an updated net rate increase for all  
8 four businesses. As a result of two Staff adjustments at NYSEG Electric that the  
9 Company accepts, one of which transfers additional wholesale transmission  
10 revenues to delivery rates from the Non-Bypassable Charge ("NBC"), and the  
11 second of which transfers transmission wheeling expenses from delivery rates to  
12 the NBC, the resulting overall net rate increases are as follows:

	NYSEG		RG&E		Total NY
	Electric	Gas	Electric	Gas	
\$000					
Delivery Increase	\$ 84,995	\$ 44,980	\$ 57,212	\$ 48,000	\$ 235,187
Non-Bypassable Charge	\$ 46,384	n/a	n/a	n/a	\$ 46,384
<b>Total</b>	<b>\$ 131,379</b>	<b>\$ 44,980</b>	<b>\$ 57,212</b>	<b>\$ 48,000</b>	<b>\$ 281,571</b>

13

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. Does the Panel have any preliminary comments concerning Staff’s testimony in  
2 this proceeding?

3 A. Yes. Staff has proposed numerous “accounting engineering” adjustments to the  
4 Companies’ revenue requirements that will financially harm the Companies and  
5 may impact their ability to provide safe and adequate service. Staff has  
6 engineered non-cash adjustments related to accumulated depreciation, created a  
7 new definition for major storms that differs from the Commission’s own  
8 regulations, denied real cost increases for property taxes, and proposed  
9 asymmetric reconciliations on controllable costs while also denying  
10 reconciliations on a number of uncontrollable costs.

11 Q. How have you organized your rebuttal testimony?

12 A. The Companies have organized their rebuttal testimony following the same basic  
13 structure in which Staff presented its testimony.

14 **REVENUE**

15 **RG&E System Benefit Charge Program**

16 Q. The Staff Revenue Requirement Panel proposes on pages 12-15 to move the base  
17 rate component of the RG&E System Benefit Charge (“SBC”) to the SBC  
18 surcharge. Does the Company agree with the Staff proposal?

19 A. Yes. Staff accurately describes RG&E’s SBC ratemaking treatment as  
20 comprising two components, an SBC surcharge recovery of \$5.036 million and a  
21 base delivery rate component of \$4.556 million. Staff proposes that RG&E  
22 recover all of the SBC costs through the surcharge and eliminate the base rate  
23 recovery component. The Company does not oppose Staff’s treatment since

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 recovery of all SBC costs through a surcharge is appropriate. As noted by the  
2 Staff Panel, this is similar to the treatment of other surcharges, including the  
3 Energy Efficiency Portfolio Standards, Renewable Portfolio Standard and  
4 Temporary State Assessment Surcharge. It is also consistent with the treatment of  
5 the SBC surcharge at NYSEG. The Company concurs with the Staff Panel's  
6 conclusion that should the SBC be discontinued in the future, the surcharge could  
7 be readily eliminated.

8 **NYSEG Electric Transmission Revenues**

9 Q. The Staff Panel proposes on pages 15-16 of its testimony to increase NYSEG's  
10 electric wholesale transmission revenue embedded in base rates by \$35 million, to  
11 a total of \$55 million. What is the Company's position on this Staff proposal?

12 A. NYSEG does not oppose the Staff adjustment that shifts an additional \$35 million  
13 of wholesale transmission revenues to base electric delivery rates. As Staff notes,  
14 any difference between the \$55 million embedded in base delivery rates and  
15 actual wholesale transmission revenues will be reconciled monthly through the  
16 Non-Bypassable Charge ("NBC").

17 Q. What is the effect of this \$35 million adjustment?

18 A. The Staff Panel's \$35 million adjustment results in an increase in base delivery  
19 rates and a decrease in the NBC. This increase in the base delivery rates is similar  
20 to the adjustment Staff made in NYSEG's 2006 electric rate case. In that case,  
21 Staff proposed and the Company accepted an increase in delivery rate wholesale  
22 transmission revenues from \$5 million to \$20 million. The Staff Panel's proposed  
23 adjustment simply transfers the way wholesale transmission revenues are returned

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 to customers, with a greater portion being returned through base delivery rates  
2 rather than through the NBC. The total wholesale transmission revenue  
3 embedded in base delivery rates will be \$55 million, with any difference between  
4 this amount and the actual level reconciled monthly through the NBC.

5 **NYSEG Gas – Delivery Revenue Adjustment**

6 Q. Have you adjusted NYSEG gas delivery revenues?

7 A. Yes. We have reflected the Company’s Sales and Revenue Panel rebuttal  
8 testimony related to NYSEG gas delivery revenues.

9 **All Businesses - Low Income Program Revenue Discounts**

10 Q. What is your rebuttal adjustment for the Low Income Revenue Discounts?

11 A. We have reflected the Companies’ rebuttal adjustment to the Staff Consumer  
12 Issues Panel proposal to reduce the low income discount. The Companies’  
13 rebuttal adjustment is described by the Customer Service Panel and restores the  
14 originally proposed low income program discount. The Companies continue to  
15 propose that the low income program amounts be fully reconciled and  
16 recovered/returned through the Deferral Recovery Mechanism (“DRM”). It is  
17 inequitable for Staff to propose only partial reconciliation (carry over any yearly  
18 under-collection and limit any over-collection to 15%), when the number of  
19 eligible participants is not determined by the Company. Under Staff’s proposed  
20 reconciliation the Company would be forced to limit the number of participants in  
21 order to avoid exceeding the mandated cap.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

**OPERATION & MAINTENANCE EXPENSES**

**NYSEG Update to Labor and Payroll**

1  
2  
3 Q. Do you agree with Staff's proposed adjustments to remove the additional one  
4 percent increase to NYSEG union wages from the December 4 Update?

5 A. No. The adjustment proposed by the Staff Panel was based on the theory that it  
6 was inappropriate for NYSEG to base the additional one percent increase for  
7 NYSEG union wages on the recent RG&E memorandum of agreement with its  
8 union.

9 Q. How else does Staff support its position?

10 A. Staff's testimony states that the RG&E union contract is not a "known" change  
11 for NYSEG.

12 Q. Is there a "known" change for NYSEG since Staff filed its testimony?

13 A. Yes, the membership of NYSEG's four local unions of System Council U-7 of the  
14 IBEW has ratified a collective bargaining agreement to be effective July 1, 2010  
15 through June 30, 2015.

16 Q. What is the wage increase provided for in that agreement?

17 A. The agreement provides for a 3% annual increase in wages effective July 4, 2010  
18 and ending June 30, 2015.

19 Q. What adjustment do you propose?

20 A. We have reversed Staff's adjustment since the actual NYSEG union contract  
21 provides for an annual 3% percent wage increase, which is consistent with the  
22 assumptions used by the Company in the December 4 Update. This increases  
23 NYSEG's labor expense by \$913,000 for Electric and by \$239,000 for Gas from

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 the Staff position. These adjustments also increase payroll taxes for NYSEG  
2 Electric by \$76,000 and Gas by \$21,000.

3 **Labor Expense - Severance Payments**

4 Q. The Staff Panel eliminates \$106,000 in severance payments in the Historical Test  
5 Year from the Rate Year for NYSEG. Do you accept Staff's adjustment?

6 A. Yes, we accept Staff's adjustment.

7 **Company Updated Payroll Inflator**

8 Q. Does the Panel agree with Staff's proposed adjustment to correct an error in the  
9 computation of RG&E's payroll factor?

10 A. Yes. The Panel has reviewed Staff's adjustment, as outlined on page 19 of its  
11 testimony, and accepts the Rate Year labor expense adjustments of \$157,000 for  
12 Electric and \$95,000 for Gas, and the Rate Year employee benefits adjustments of  
13 \$14,000 for Electric and \$8,000 for Gas.

14 **NYSEG – Pensions/OPEBs**

15 Q. Staff makes various proposals related to NYSEG Pension and OPEB expense.  
16 Does the Panel agree with these proposals?

17 A. The Panel agrees with most of Staff's proposals. Staff first recommends, on page  
18 21 of its testimony, that NYSEG Electric and Gas be allowed to reconcile pension  
19 and OPEB expense consistent with the Commission's Pension Policy Statement.  
20 The Company is in full agreement with Staff's recommendation.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. What does Staff next recommend?

2 A. Staff, on page 22 of its testimony, agrees with the Company's proposal that the  
3 OPEB reserve not accrue a carrying charge but instead be treated as a rate base  
4 deduction. The Company appreciates the Staff Panel's agreement on this issue.

5 Q. Are there Staff proposals that you disagree with?

6 A. Yes. We disagree with Staff's proposal regarding the accrual of carrying charges  
7 on newly-created deferrals that result from the application of the reconciliation of  
8 actual pension and OPEB costs to the amounts embedded in rates.

9 Q. Would the Panel explain their disagreement with Staff on this issue?

10 A. Staff has proposed that any newly-created deferrals not accrue any carrying  
11 charges, consistent with the current treatment by NYSEG's affiliate, RG&E.  
12 While RG&E currently treats these deferrals as an adjustment to rate base and  
13 does not accrue a carrying charge on their balance, it is more appropriate to  
14 calculate a carrying charge on either a debit or credit balance and add that  
15 carrying charge to the deferred balance for future disposition by the Commission.  
16 This accrual of carrying charges is typical for newly-created deferrals, and would  
17 minimize any unforeseen volatility in NYSEG's rate base. We believe that  
18 NYSEG's proposal to accrue carrying charges should be adopted.

19 Q. What if the Commission adopts Staff's proposal?

20 A. If the Commission were to agree with Staff and not allow carrying charges to be  
21 accrued on any newly-created deferrals associated with pensions and OPEBs, the  
22 Commission should specify that the balance in any of these newly-created  
23 deferrals will be treated as part of rate base.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. Does NYSEG agree with Staff's recommended change in the allocation of OPEB  
2 costs to the NYSEG Electric business?

3 A. Yes. The Staff Panel correctly calculates on page 23 of its testimony the impact  
4 of modifying the allocation between Electric and Gas. Staff specifies an amount  
5 of \$538,000 that increases NYSEG Electric OPEB expense.

6 Q. What is Staff's next recommendation that differs from NYSEG's filed case?

7 A. Staff recommends that the rate allowance for pensions and OPEBs be calculated  
8 using a discount rate of 5.90%, which is 30 basis points above the level used by  
9 NYSEG's actuaries in preparing NYSEG's December 4 Update estimates for  
10 pension and OPEB costs.

11 Q. Does the Company agree with this Staff recommendation?

12 A. Yes. The Company agrees that a discount rate of 5.90% can be used at this time  
13 to calculate the pension and OPEB costs. We agree with Staff's adjustments  
14 noted on page 27, lines 18-21, of the Staff Panel testimony.

15 Q. What does the Staff Panel propose with respect to NYSEG Gas pension costs and  
16 deferred costs under current rate provisions?

17 A. The Staff Revenue Requirements Panel states that the Staff Policy Panel has  
18 recommended that the deferred costs, in their entirety, be collected through the  
19 existing gas transition surcharge, rather than being collected through an offset  
20 against the NYSEG Gas PBA amount as proposed by the Company (for amounts  
21 deferred through June 2009) and through the gas transition surcharge (for  
22 amounts deferred after June 2009).

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. What is NYSEG's response to Staff's proposal?

2 A. The Company can accede to the recovery method proposed by Staff and is willing  
3 to continue to collect NYSEG Gas pension amounts that have been deferred  
4 through the gas transition surcharge. The gas transition surcharge will also  
5 continue to collect deferred pipeline integrity amortization and the 2006 flood  
6 costs as shown on Schedule C of the Exhibit \_\_ (NYSEG as RRP-2) Rebuttal.

7 **RG&E – Pensions/OPEBs**

8 Q. Do you agree with the various Staff proposals for RG&E Pension and OPEB  
9 expense?

10 A. We agree with most but not all of Staff's proposals. The Staff Panel recommends  
11 on page 30 of their testimony that RG&E Electric and Gas be allowed to continue  
12 to reconcile pension and OPEB expense consistent with the Pension Policy  
13 Statement. The Staff Panel also recommends that the OPEB reserve be included  
14 as a rate base deduction. The Company is in full agreement with these Staff  
15 recommendations.

16 Q. Does the Staff Panel also discuss the accrual of carrying charges on the  
17 differences between actual and rate case allowed amounts of pension and OPEB  
18 costs?

19 A. Yes. Staff indicates that they would like RG&E's current practice of not accruing  
20 carrying charges on these deferred differences to continue in the future.

21 Q. What is the Company's response to this recommendation?

22 A. As we previously testified for NYSEG, RG&E currently treats these new deferrals  
23 as an adjustment to rate base and does not accrue a carrying charge on the

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 balance, it is more appropriate to calculate a carrying charge on either a debit or  
2 credit balance and add that carrying charge to the deferred balance for future  
3 Commission disposition. This accrual of carrying charges is typical for newly-  
4 created deferrals and would minimize unforeseen volatility in RG&E's rate base,  
5 and as a result the Commission should adopt the Company's proposal to accrue  
6 carrying charges.

7 Q. What if the Commission should adopt Staff's proposal?

8 A. If the Commission were to agree with Staff and not allow carrying charges to be  
9 accrued on any newly-created deferrals associated with pensions and OPEBs, the  
10 Commission should specify that the balance in any of these newly-created  
11 deferrals would be treated as part of rate base.

12 Q. Does the Staff Revenue Requirements Panel at page 31 of its testimony  
13 recommend a modification to the discount rate used to calculate the pension and  
14 OPEB cost rate amounts?

15 A. Yes. Similar to its recommendation for NYSEG, Staff recommends using a  
16 5.90% discount rate rather than the 5.6% rate used by the Company. We agree  
17 that a discount rate of 5.90% can be used at this time to calculate pension and  
18 OPEB costs. Accordingly, RG&E agrees with the adjustments noted on page 31,  
19 lines 11-14, of the Staff Panel's testimony.

20 Q. What is your position on Staff's recommendation to alter RG&E's allocations of  
21 OPEB expenses in the rate year?

22 A. The Company accepts Staff's proposed increase to RG&E Gas OPEB expense of  
23 \$102,000, as indicated on page 31 of the Staff Panel's testimony.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. Is there an issue with the Staff Panel's application of this \$102,000 adjustment in  
2 its exhibits?

3 A. Yes. Staff Exhibit \_\_ (SRRP-4), Schedule I, page 1 of 5, shows the \$102,000  
4 adjustment as an increase in RG&E Electric OPEB cost, while the Staff Panel's  
5 testimony on page 31 describes it as an adjustment to RG&E Gas OPEB expense.  
6 Staff Exhibit \_\_ (SRRP-5), Schedule I, page 1 of 4, does not show any such  
7 adjustment to RG&E Gas OPEB expense. The Company has reflected this  
8 adjustment in its gas rebuttal exhibits and not its electric rebuttal exhibits to be  
9 consistent with Staff's testimony.

10 Q. RG&E's historical practice of applying 100% of the pension income/cost to  
11 Operation and Maintenance ("O&M") is challenged by the Staff Panel's  
12 testimony on pages 31-33, with Staff recommending an allocation of this cost to  
13 capital. What is the Company's response to Staff's recommendation?

14 A. RG&E agrees conceptually with Staff's proposed allocation and, therefore,  
15 accepts the adjustment amounts presented by the Staff Panel.

16 Q. The Staff Panel identifies on pages 34-35 of its testimony that RG&E is likely to  
17 have a deferral of approximately \$7.3 million at the beginning of the rate year  
18 associated with its reconciliation of OPEB expense. The Staff Panel recommends  
19 that the deferred amount be amortized over three years to benefit customers. Do  
20 you agree?

21 A. Yes, we agree in concept, but with the important caveat that the actual amount  
22 that would be amortized over the three year period should be the amount included  
23 in rates, which may differ from the \$7.3 million amount noted in Staff's

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1 testimony. Any difference between the actual amount amortized and the amount  
2 included in rates for the amortization should be considered part of the overall  
3 reconciliation of OPEB costs that both Staff and the Company have supported in  
4 their respective testimony.

5 **Non-Qualified Pension Costs**

6 Q. Does the Panel agree with Staff's recommendations regarding the exclusion of  
7 non-qualified pension costs from the Companies' rate allowance?

8 A. No. The Companies continue to fully support their filed position that the costs of  
9 providing non-qualified pension plan benefits to certain employees should be  
10 fully recoverable in rates.

11 Q. Would you please discuss Staff's various arguments in favor of exclusion of non-  
12 qualified pension costs?

13 A. Yes. On page 36 of its testimony, the Staff Panel alleges that these pension  
14 benefits are not available to rank and file employees. While factually correct, it  
15 does not alter the reality that these non-qualified plans are part of a competitive  
16 compensation package designed to attract effective executives to the Company.  
17 These costs are therefore appropriate operating expenses incurred to attract and  
18 retain highly skilled utility executives.

19 Q. What is Staff's next argument regarding exclusion of the non-qualified plan  
20 costs?

21 A. Staff argues that the Commission recently determined that incentive  
22 compensation plans must be self-supporting through productivity savings or  
23 financed by shareholders. The Staff Panel relies on this statement of Commission

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1 policy regarding incentive compensation limits as a basis for removing all non-  
2 qualified pension costs from the rate year forecast. Staff has made an inexplicable  
3 leap from the Commission precedent dealing solely with incentive compensation  
4 to support its proposed disallowance of non-qualified pension costs, even though  
5 those costs are not primarily incentive compensation.

6 Q. The Staff Panel next suggests that there could be a potential disallowance of only  
7 a portion of the non-qualified pension costs that might in some fashion be loosely  
8 associated with some form of incentive compensation. Is this correct?

9 A. Yes, on page 38 of the Staff Panel's testimony Staff argues in the alternative that  
10 if the Commission were to (properly) reject full disallowance of the Companies'  
11 non-qualified plan costs, then at least some portion of the expense should be  
12 disallowed.

13 Q. Does Staff quantify what the portion to be disallowed should be?

14 A. No.

15 Q. If the Commission should reject the Companies' position that these costs are  
16 appropriately 100% included in rates, and arrive at a conclusion that the portion of  
17 these costs relating to incentive compensation should be disallowed, do you have  
18 an estimate of how much of the non-qualified pension costs are related to  
19 incentive compensation?

20 A. Not at this time. Should the Commission reach the conclusion identified in this  
21 question, the Companies would provide, for Staff review, a calculation of the  
22 amount of non-qualified pension costs that could be considered related to  
23 incentive compensation. The Companies believe that only a small percentage of

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1 the non-qualified pension costs are related to incentive compensation, but have  
2 not had the opportunity to prepare this calculation.

3 Q. Can you briefly comment on the Staff Panel’s attempt to bolster disallowance of  
4 these legitimate, non-qualified pension costs by suggesting that they are  
5 discretionary and should be removed given current economic conditions?

6 A. This argument is an example of an attempted “double-dip” by the Staff Panel. As  
7 noted in the Staff Panel’s testimony and exhibits, and further discussed in the  
8 Companies’ Policy Panel rebuttal testimony, Staff has proposed over \$30 million  
9 in total austerity and productivity savings in its revenue requirements. On the  
10 other hand, Staff argues that these non-qualified pensions are one type of expense  
11 that the Companies have some discretion over, and therefore they are candidates  
12 for austerity and/or productivity savings. Staff’s recommendation to remove  
13 these costs, as well as to impute austerity and productivity savings on the  
14 Companies, is therefore inappropriate.

15 Q. Do you agree with the Staff Panel’s position that non-qualified plans should be  
16 excluded from the application of the true-up provisions of the Commission’s  
17 Pension Policy Statement?

18 A. No. These costs are legitimate pension costs and should be part of the rate  
19 allowance for pensions as well as part of the actual pension costs, which are  
20 subsequently compared to the rate allowance to determine if any true-up is  
21 required.

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1 Q. In the event the Commission should include only a portion of these non-qualified  
2 costs in the rate allowance, how should pension cost reconciliation be handled?

3 A. That portion allowed should be part of the amount compared to actual costs for  
4 purposes of a true-up, and the actual amount should be adjusted to exclude any  
5 portion the Commission has disallowed before making the comparison for  
6 deferral.

7 **Group Incentives**

8 Q. Staff has proposed to eliminate all group incentive compensation from the  
9 Companies revenue requirement. Do you agree with this adjustment?

10 A. No. Staff inappropriately and unfairly assumes that any variable compensation  
11 which is tied to the Companies' operating performance should be eliminated from  
12 the determination of rates. The Company voluntarily removed all executive  
13 incentive compensation from its rate requests. However, the Company proposed  
14 to retain its group incentive allowance since it relates to non-union management  
15 employees, is tied to meeting service and operating standards, and reflects the fact  
16 that non-union employees do not receive annual adjustments to their payroll.

17 Q. How did the Company reflect non-union base pay adjustments?

18 A. The Company did not reflect any base pay increase for non-union employees for  
19 two years. As part of its austerity effort, non-union employees have had their  
20 salaries frozen since August 2008. The recognition of this salary freeze was not  
21 taken into account when Staff removed all incentive compensation or when Staff  
22 calculated its austerity adjustment. The value of the Companies' non-union salary

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1 freeze is \$2.3 million, as shown in Company data response NYRC-0222 (attached  
2 to Staff Exhibit \_\_ (SPP-1), pg. 28).

3 Q. What are the components of the group incentive?

4 A. The group incentive is based on achieving corporate and business area objectives  
5 related to provision of utility service. The corporate objectives are composed of  
6 customer satisfaction, customer interaction, energy delivery and O&M expense  
7 control. Business objectives are based on customer service (achieving the  
8 customer service requirements established by the Commission), operations and  
9 technical services (achieving the reliability and gas safety metrics established by  
10 the Commission), generation (achieving hydro flow utilizations), human resources  
11 (achieving equal opportunity employment criteria), supply chain (fleet  
12 availability, inventory), regulatory (reporting requirements, tariffs, rate filings),  
13 and administration. The program is designed so that employee objectives are  
14 aligned with meeting customer and corporate responsibilities associated with the  
15 provision of utility service. To exclude non-union incentive compensation just  
16 because it is called “incentive” is inequitable.

17 Q. Do you propose to restore the group incentive?

18 A. Yes. The Company proposes to include the group incentive amounts in its  
19 revenue requirement. If the Commission decides that group incentive amounts  
20 should be excluded from rates, then the Company requests that such removal be  
21 reflected in its austerity adjustment.

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1           **NYSEG Uncollectible Expense**

2           Q.     Will you please describe both Staff's position with respect to uncollectible  
3           expenses to be recovered in NYSEG's rates and NYSEG's response?

4           A.     Beginning on page 44 of its testimony, the Staff Panel agrees with NYSEG's  
5           proposed utilization of the most recent single year of data to develop the  
6           uncollectible percentage to apply to revenues to arrive at uncollectible expense.  
7           Staff goes further on page 48 of its testimony and recommends using the most  
8           recent 12 months ended percentage of net write-off to retail sales to calculate an  
9           updated amount of uncollectible expense just prior to the date of the final  
10          Commission orders in these cases.

11          Q.     Does the Company agree with an update to uncollectible expense?

12          A.     Yes, NYSEG agrees with making such an update.

13          Q.     What is Staff's next proposal involving uncollectible expense and the new arrears  
14          forgiveness low income program?

15          A.     Staff recommends that NYSEG adjust its uncollectible expense by applying 50%  
16          of the amount of arrears forgiveness that is included in NYSEG's proposed (and  
17          Staff adjusted) arrears forgiveness program. The Company agrees conceptually  
18          that there should be an adjustment to reflect the arrears forgiveness program's  
19          estimated impact on uncollectible expense.

20          Q.     Do you agree with Staff's calculation methodology for its 50% adjustment to  
21          uncollectible expense levels due to arrears forgiveness?

22          A.     For the most part, yes. However, Staff has neglected one consideration in its  
23          calculation that should be added to the process of determining the final adjustment

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1 to uncollectible expense. Staff did not consider that, generally speaking, the  
2 Company's recent history of arrears collections shows that only about 55% of the  
3 arrears that exist in the oldest aging category (120 days+) get written off in  
4 normal circumstances, and arrears in aging categories of a shorter duration get  
5 written off at an even lower rate. This can be seen in the Company response  
6 NYRC-0064 to DPS-64, Attachment 1, page 17. This response is included as  
7 Exhibit \_\_ (NYSEG RRP- 9) Rebuttal to this rebuttal testimony.

8 Q. How should the Staff Panel's calculation be modified to determine the  
9 Company's estimated adjustment to uncollectible expense for arrears forgiveness  
10 amounts?

11 A. First, consistent with the Customer Service Panel's rebuttal testimony, the  
12 Company continues to support the full amount of its initially proposed Low  
13 Income Program. The arrears forgiveness portion of that program includes  
14 \$4.248 million of arrears forgiveness for NYSEG Electric and \$2.473 million of  
15 arrears forgiveness for NYSEG Gas. There should be a new step added to the  
16 methodology that Staff has proposed that would multiply the level of arrears  
17 forgiveness by the most recent reserve percentage applied to the oldest category  
18 of arrears. The Company has included a detailed calculation as Exhibit \_\_  
19 (NYSEG RRP-19 Rebuttal which shows the overall calculation. Using the  
20 information contained in Company response NYRC-0064 and Staff's workpapers,  
21 the initial step for NYSEG Electric would be to multiply the Company's proposed  
22 "Customer Services Arrears Forgiveness Allowance" of \$4.248 million by  
23 54.923%, resulting in an amount of arrears that would have been written off of

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1           \$2.333 million. The rest of the Staff Panel’s original calculation methodology  
2           would then be used, multiplying the \$2.333 million amount by 50% to arrive at  
3           \$1.167 million, and then splitting this amount between delivery and commodity  
4           according to the percentages contained in the Staff workpaper.

5   Q.    What would be the resulting updated calculations for adjustments to NYSEG  
6           Electric and NYSEG Gas, assuming NYSEG’s proposed calculation methodology  
7           were accepted and the amount of arrears forgiveness is set at the Company’s  
8           proposed level?

9   A.    The details of the Company’s calculation are included on Exhibit \_\_ (NYSEG  
10           RRP-19) Rebuttal to this testimony. The NYSEG Electric delivery uncollectible  
11           expense adjustment would be a decrease of \$635,000 (instead of the \$228,000  
12           decrease proposed by Staff). The NYSEG Electric commodity uncollectible  
13           expense adjustment would be a decrease of \$532,000 (instead of the \$191,000  
14           decrease proposed by Staff). The NYSEG Gas delivery uncollectible expense  
15           adjustment would be a decrease of \$248,000 (instead of the \$47,000 decrease  
16           proposed by Staff). The NYSEG Gas commodity uncollectible expense  
17           adjustment would be a decrease of \$431,000 (instead of the \$84,000 decrease  
18           proposed by Staff).

19   Q.    If the Commission were to approve the Company’s proposal for a reconciliation  
20           and true-up of uncollectible expense, would an adjustment for low income arrears  
21           forgiveness be necessary?

22   A.    No. Any impact of the low income arrears forgiveness program on uncollectible  
23           expense would be considered in the reconciliation. To the extent there was a

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1 decrease in uncollectible expense due to the program, the difference would be  
2 placed in a regulatory liability account and ultimately passed back to the  
3 ratepayers either through the Company's proposed DRM methodology or through  
4 some other Commission-authorized method.

5 Q. Does Staff accept the Company's proposal to reconcile uncollectible amounts?

6 A. No. Staff takes the position that by using the most current uncollectible  
7 percentages, it provides the Company with the right amount in rates as well as the  
8 incentive to control costs, and as a result there should be no true-up of delivery  
9 uncollectible expense.

10 Q. Does NYSEG agree with Staff's position?

11 A. No. A full reconciliation is appropriate. Delivery uncollectible expenses are  
12 significantly impacted by economic factors well outside of the Company's  
13 control. What little control the Company is able to exert can be overshadowed by  
14 macro-economic factors such as present unemployment levels in the Companies'  
15 service territories. A true-up is the correct mechanism to implement in a time  
16 when macro-economic factors are the primary driving factor behind utility  
17 uncollectible levels.

18 Q. What evidence does the Company have that negative macro-economic factors  
19 overshadow controllable factors when it comes to uncollectible expense?

20 A. As shown in the Company's response NYRC-0063, attachment 1 (included here  
21 as Exhibit \_\_ (NYSEG RRP-10) Rebuttal, uncollectible write-off expense as a  
22 percentage of revenue has risen dramatically from 2005 to the test year. This time  
23 frame corresponds to a general deterioration in economic conditions. It was also a

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1 time during which NYSEG had every incentive to control costs since there was no  
2 reconciliation or true-up available to the Company's delivery business. Despite  
3 these motivating factors, the electric business uncollectible percentage nearly  
4 doubled, from 0.8% to 1.4%, and the gas business uncollectible percentage  
5 increased by 50%, from 1.4% to 2.1%.

6 Q. Would the Company be willing to consider a "dead-band" around the rate case  
7 allowed level of delivery uncollectible expense, within which there would be no  
8 true-up?

9 A. This approach makes sense to us, but only in a multi-year environment.

10 **RG&E Uncollectible Expense**

11 Q. Could the Panel please briefly describe Staff's proposal with respect to RG&E's  
12 uncollectible expenses, as well as the Company's response?

13 A. In its testimony, starting on page 49, the Staff Panel agrees with RG&E's  
14 utilization of the most recent single year of data to develop the uncollectible  
15 percentage to apply to revenues to arrive at uncollectible expense. Staff goes  
16 further on page 52 of its testimony by recommending using the most recent 12  
17 months ended percentage of net write-off to retail sales to calculate an updated  
18 amount of uncollectible expense just prior to the Commission issuing its final  
19 decision in these cases. RG&E, like NYSEG, agrees with such an update.

20 Q. What is Staff's next proposal regarding uncollectible expense, and what is the  
21 Company's response to that proposal?

22 A. Staff recommends that RG&E adjust its uncollectible expense by applying 50% of  
23 the amount of arrears forgiveness that is included in RG&E's proposed (and Staff

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1 adjusted) arrears forgiveness program. RG&E agrees conceptually that there  
2 should be an adjustment to reflect whatever the final approved arrears forgiveness  
3 program amounts generate in terms of estimated uncollectible expense reductions.

4 Q. Is RG&E in agreement with Staff's calculation methodology for the adjustment to  
5 uncollectible expense levels due to arrears forgiveness?

6 A. Similar to the discussion above for NYSEG, RG&E agrees for the most part to  
7 Staff's approach. In RG&E's case, Staff has neglected to include consideration  
8 that, generally speaking, the Company's recent history of arrears collections  
9 shows that only about 52% of the arrears that exist in the oldest aging category  
10 (120 days+) get written off in normal circumstances, and arrears in aging  
11 categories of a shorter duration get written off at an even lower rate. This can be  
12 seen in the Company response NYRC-0064 to DPS-64, Attachment 2, page 19.  
13 This response is included as Exhibit \_\_ (NYSEG RRP- 11) Rebuttal to this  
14 testimony.

15 Q. How should the Staff calculation be adjusted to determine an appropriate  
16 estimated adjustment to uncollectible expense for final arrears forgiveness  
17 amounts?

18 A. First, consistent with the Customer Service Panel's rebuttal testimony, the  
19 Company continues to support the full amount of its initially proposed Low  
20 Income Program. The arrears forgiveness portion of that program includes  
21 \$1.671 million of arrears forgiveness for RG&E Electric and \$2.525 million of  
22 arrears forgiveness for RG&E Gas. The same modifications to Staff's approach  
23 discussed earlier for NYSEG would be applied to the RG&E calculation. Using

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1 the information contained in RG&E’s response NYRC-0064 and Staff  
2 workpapers, the initial step for RG&E Electric would be to multiply the  
3 Company’s proposed “Customer Services Arrears Forgiveness Allowance” of  
4 \$1.671 million by 51.972%, resulting in an amount of arrears that would have  
5 been written off of \$868,000. The rest of the calculation methodology would stay  
6 the same as Staff’s, multiplying this result by 50% to arrive at \$424,000, and then  
7 splitting this amount between delivery and commodity according to the  
8 percentages contained on the Staff workpaper.

9 Q. What would be the resulting updated calculations for adjustments to RG&E  
10 Electric and RG&E Gas, assuming RG&E’s proposed modification to the  
11 calculation were accepted and the amount of arrears forgiveness is set at the  
12 Company’s proposed level?

13 A. The details of the RG&E calculation are included on Exhibit \_\_ (RG&E RRP-9)  
14 Rebuttal to this testimony. The RG&E Electric delivery uncollectible expense  
15 adjustment would be a decrease of \$390,000 (instead of the \$163,000 decrease  
16 proposed by Staff). The RG&E Electric commodity uncollectible expense  
17 adjustment would be a decrease of \$45,000 (instead of the \$18,000 decrease  
18 proposed by Staff). The RG&E Gas delivery uncollectible expense adjustment  
19 would be a decrease of \$228,000 (instead of the \$29,000 decrease proposed by  
20 Staff). The RG&E Gas commodity uncollectible expense adjustment would be a  
21 decrease of \$428,000 (instead of the \$55,000 decrease proposed by Staff).

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1 Q. If the Commission were to approve RG&E's proposal for a reconciliation and  
2 true-up of uncollectible expense, would an adjustment for low income arrears  
3 forgiveness be necessary?

4 A. No. Any impact of the low income arrears forgiveness program on uncollectible  
5 expense would be considered in the reconciliation. To the extent there was a  
6 decrease in uncollectible expense due to the low income program, the difference  
7 would be placed in a regulatory liability account and ultimately passed back to the  
8 ratepayers either through the Company's proposed DRM methodology or through  
9 some other Commission-authorized method.

10 Q. Does Staff accept RG&E's proposal to reconcile uncollectible amounts?

11 A. No. Staff takes the position that by using the most current uncollectible  
12 percentages, it provides RG&E with the right amount in rates as well as the  
13 incentive to control these costs, therefore justifying no true-up of delivery  
14 uncollectible expense.

15 Q. Does RG&E agree with Staff's position?

16 A. No, reconciliation is appropriate and should be adopted. As we testified regarding  
17 NYSEG, delivery uncollectible expenses are significantly impacted by macro-  
18 economic factors outside of RG&E's control. What little control RG&E can exert  
19 is overshadowed by macro-economic factors such as high unemployment levels in  
20 New York. This situation is a paradigm for events outside the utility's control  
21 where a true-up should be in place.

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1 Q. What evidence does the Company have that the economic factors overshadow  
2 controllable factors when it comes to uncollectible expense?

3 A. As shown in the Company's response NYRC-0062, attachment 1 Exhibit \_\_  
4 (RG&E RRP29x) Rebuttal, uncollectible write-off expense as a percentage of  
5 revenue has risen dramatically from 2005 to the test year. This time is one where  
6 general economic conditions have deteriorated and RG&E had every incentive to  
7 control uncollectible costs, since there was no reconciliation or true-up available  
8 in the delivery business. Despite these facts, the electric business uncollectible  
9 percentage more than doubled, from 1.04% to 2.17%, and the gas business  
10 percentage increased by 80%, from 1.82% to 3.28%.

11 Q. Would RG&E be willing to consider a "dead-band" around the rate case allowed  
12 level of delivery uncollectible expense, within which there would be no true-up?

13 A. This approach makes sense to us in a multi-year environment.

14 **Legal Services and Rate Case Expense**

15 Q. Staff proposes to exclude all costs associated with the January 2009 rate case  
16 filing. Do you accede to this adjustment?

17 A. While the Company was able to reduce the costs of its September 2009 rate filing  
18 as a result of the work performed during the January 2009 case, it is willing to  
19 accept the Staff adjustment and remove such costs from these cases.

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1           **NYSEG Radio Project**

2           Q.     Does the Panel agree with Staff's proposed \$1.3 million adjustment to NYSEG's  
3                 electric and gas revenue requirement to remove certain ongoing maintenance  
4                 costs associated with the newly implemented radio system?

5           A.     No. Staff's conclusion and adjustment are wrong. The Staff Panel's testimony,  
6                 pages 59-60, is based on two incorrect premises. The first incorrect premise is  
7                 that since the overall project is scheduled for completion in December 2011, no  
8                 cost increases related to the project would occur prior to that time. The second  
9                 incorrect premise is that NYSEG's provision of contractual information  
10                supporting the amounts included in NYSEG's initial case was lacking.

11          Q.     Why is the Staff Panel's first premise incorrect?

12          A.     The Staff Panel has identified in its own testimony at page 62, lines 10-11, that  
13                 nine of the thirteen NYSEG divisions will have the new radio system operational  
14                 by the end of 2009. NYSEG is contractually obligated to pay the appropriate  
15                 maintenance costs to the contractor providing services for the divisions that are  
16                 operational. NYSEG's response NYRC-0700, which is referenced in Staff's  
17                 testimony, as well as workpapers provided to Staff with the Company's December  
18                 4 Update, show that those costs that will be incurred during the rate year and sets  
19                 forth a comparison to costs included in the test year. NYSEG's overall \$1.3  
20                 million increase in costs from test year to rate year is fully documented.

21          Q.     Why is Staff's second premise incorrect?

22          A.     Staff suggests in its testimony that the contract information provided in the  
23                 Company response NYRC-0700 was not a contract, and therefore did not provide

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1 adequate support for the costs. The Staff Panel may have not been aware that the  
2 information provided by the Company was an excerpt from the overall contract.  
3 The excerpt was utilized in an effort to respond to the specific question asked by  
4 Staff without providing the contract's entire 410 pages, which would have  
5 required a trade secret filing as much of the contract contains competitively  
6 sensitive information. If this response does not provide Staff with the comfort it  
7 requires, the Company is willing to make a separate trade secret filing for the  
8 entire contract, or, alternatively, make arrangements for Staff to review the  
9 contract on a confidential basis in the Company's office in Rochester, New York.

10 Q. Given that Staff's recommendation is based on two incorrect premises, what  
11 action should the Commission take?

12 A. The Commission should not accept Staff's recommended adjustment to Electric  
13 O&M of \$1.131 million and Staff's adjustment to Gas of \$167,000. The  
14 Company has provided the relevant contract information and supporting  
15 documentation that these costs will be incurred for the operation of the Radio  
16 Project.

17 Q. Does Staff go further in its testimony on the Radio Project?

18 A. Yes. Staff attempts to exclude \$22.5 million from rate base and \$1.6 million from  
19 depreciation expense associated with the Radio Project.

20 Q. Is Staff again basing its adjustments on incorrect premises?

21 A. Yes. Once again, Staff's assumptions and premises are flawed. Staff's primary  
22 argument is that since the total project will not be complete until the end of 2011,  
23 and the Company is accruing Allowance for Funds Used During Construction

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1 (“AFDC”) on the project, nothing should be in rate base and/or be depreciated.

2 Staff further asserts that the project is a single unit of property and as a result the  
3 accounting treatment they propose is accurate.

4 Q. Where do Staff’s assumptions and premises fail?

5 A. Staff assumes that the entire project is a single unit of property for capital  
6 accounting purposes. This assumption is incorrect. There are many units of  
7 property involved in the various parts of the Radio Project, which are clearly  
8 delineated by the Commission and/or the Federal Energy Regulatory Commission  
9 (“FERC”) Uniform System of Accounts (“USOA”) and which the Company has  
10 followed when placing portions of the project into plant in service as those  
11 portions became ready for use. Examples of units of property placed in service  
12 (and recognized in the USOA) are: Radios, Towers, Antennae, Transmitters,  
13 Foundations, and Fencing. Those sections of the USOA for accounts 397 and 390  
14 provide further information supporting the Company’s position.

15 Q. Is it appropriate for the Company to accrue AFDC on the costs of the project that  
16 are not yet in service?

17 A. Absolutely. The Company follows all USOA-defined AFDC practices and  
18 therefore accrues AFDC on the Construction Work In Progress (“CWIP”)  
19 balances associated with the project. AFDC is not accrued by the Company on  
20 the portions of the project that have been placed into service. The \$564,000 of  
21 AFDC referenced in the Staff testimony and in the Company’s Exhibit \_\_  
22 (NYSEGCRO-3), page 25, represents the calculated AFDC on the CWIP that  
23 would be outstanding over the remaining time frame that the project will be

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1 worked on. Portions of the project will go into service prior to the estimated final  
2 end date of December 2011, and AFDC will not be accrued on those amounts  
3 moved from CWIP to plant in service.

4 Q. Is the depreciation expense associated with the radio project investment  
5 appropriately included in the rate year costs?

6 A. Yes. As previously testified to, the majority of the project is already used and  
7 useful and in service. The Company has appropriately been depreciating that  
8 investment and will continue to do so. The Commission must reject Staff's  
9 unsupported attempt to exclude legitimately incurred depreciation costs from the  
10 Company's revenue requirement.

11 Q. Is there any logic to the last point Staff raises with respect to the ongoing costs  
12 associated with maintaining the new radio system?

13 A. None. Staff suggests that ongoing maintenance costs should be allowed in rates  
14 only if they are offset by the maintenance costs and depreciation on the existing  
15 equipment. Staff has clearly not understood why the new radio system is being  
16 implemented by the Company. As noted in Company Exhibit \_\_ (NYSEGCRO-  
17 3), page 25, NYSEG was required to comply with Federal Communications  
18 Commission ("FCC") regulations that would preclude the use of the previous  
19 radio system starting January 2013. The Company had no choice but to replace  
20 the existing system. The Company response NYRC-0700 noted that the  
21 justification for this project was not cost savings but to meet FCC requirements.  
22 Not every project is implemented just to save costs.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1            **NYSEG Transportation Expense**

2            Q.     Does the Panel agree with Staff’s proposed adjustments to reduce rate year O&M  
3            payroll costs for NYSEG Electric by \$606,000 and NYSEG Gas by \$107,000?

4            A.     Not completely. The adjustment proposed by Staff was based on the  
5            rationalization that it was inappropriate for the Company to increase staffing  
6            levels from the historic test year to the rate year and that austerity measures built  
7            into the test year should be forecasted into the rate year. We disagree with that  
8            rationale.

9            Q.     Does the Company accept Staff’s recommendation not to increase payroll cost for  
10            Transportation Department vacancies in the test year?

11           A.     Yes.

12           Q.     Do you propose any other changes to Staff’s payroll adjustment?

13           A.     Yes, the Company proposes that two changes be made to Staff’s calculation.  
14           First, the Transportation Department’s historic test year payroll costs exclude  
15           “secondary labor movement” or payroll costs that were incurred by the  
16           department but were not reflected in the test year labor costs used in Staff’s  
17           adjustment calculation. Second, the payroll escalation factors used by Staff are  
18           not the updated payroll inflation factor that incorporates the recently ratified  
19           NYSEG Union Agreement.

20           Q.     Has the Panel prepared an exhibit quantifying this adjustment?

21           A.     We prepared Exhibit \_\_ (NYSEG/RG&E RRP-21) Rebuttal which demonstrates  
22           and calculates the Company adjustment to the Transportation Payroll O&M costs

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 for the rate year. The Company recommends that the Commission reduce Staff's  
2 adjustment by \$265,000 for NYSEG Electric and \$47,000 for NYSEG gas.

3 Q. Were any other adjustments proposed by Staff?

4 A. Yes.

5 Q. Please describe Staff's other adjustment to NYSEG Transportation Expense.

6 A. Staff proposes to limit the Company's estimate of increased material costs to  
7 inflation, thereby reducing the rate year O&M costs for NYSEG Electric by  
8 \$493,000 and NYSEG Gas by \$87,000. Staff asserts that the Company's decision  
9 to postpone vehicle replacements during the test year would not significantly  
10 increase short-term maintenance costs.

11 Q. Does the Panel agree with Staff's conclusion?

12 A. No. When a company's Fleet replacement program is operating on a cycled basis,  
13 maintenance costs can be expected to trend with inflation. Beginning with the  
14 first year a company stops replacing vehicles, the maintenance costs will increase  
15 by the difference between the maintenance costs of new vehicles coming into the  
16 fleet versus the oldest vehicles moving out of the fleet. Therefore, in the first year  
17 a company will experience an increase in maintenance costs.

18 Q. Has the Company quantified the increase in vehicle maintenance costs that will  
19 occur from not replacing Fleet during the test year?

20 A. Yes.

21 Q. Please explain how you quantified the increase in vehicle maintenance costs.

22 A. The Company listed all vehicles that were scheduled to be replaced during 2009  
23 and summarized the maintenance costs on those vehicles from 2007. The total of

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1           those 2007 maintenance costs were marked up for inflation to quantify the  
2           incremental O&M costs that the Company will experience in the years after the  
3           rate year. The results of this analysis are provided in Exhibit \_\_ (NYSEG/RG&E  
4           RRP – 23) Rebuttal.

5   Q.    How long will the Company experience an increase in operating expenses beyond  
6           the test year?

7   A.    The increased level of expenses from the rate year due to deferring purchases for  
8           one year would remain permanent until the Company reduces the average age of  
9           its fleet.

10   Q.   Has the Panel prepared an exhibit quantifying this adjustment?

11   A.    The Panel has prepared Exhibit \_\_ NYSEG/RG&E RRP-23) Rebuttal which  
12           demonstrates and calculates the Company adjustment to the Transportation  
13           Material O&M costs for the rate year. The Company recommends that the  
14           Commission reverse Staff's adjustment by increasing transportation costs for  
15           NYSEG Electric by \$493,000 and for NYSEG Gas by \$87,000.

16   Q.    What is the total transportation operating expense increase being recommended  
17           by the Company?

18   A.    The Company recommends that the Commission increase total transportation  
19           expenses from the Staff proposed levels for NYSEG Electric by \$758,000 and  
20           NYSEG Gas by \$134,000.

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1           **RG&E Transportation Expense**

2   Q.    Can the Panel please describe Staff's proposed adjustments to RG&E  
3           Transportation Expenses?

4   A.    Staff's testimony proposes an adjustment to reduce RG&E Transportation O&M  
5           Expenses relating to transportation payroll and material costs. The flawed  
6           rationale provided by Staff is identical to the explanations Staff applied to  
7           NYSEG.

8   Q.    What are the adjustments proposed by Staff?

9   A.    Staff proposed to limit the Company's estimate of increased material costs to  
10           inflation, thereby reducing the rate year O&M costs for RG&E Electric by  
11           \$59,000 and RG&E Gas by \$20,000. In addition, Staff proposed to reduce rate  
12           year O&M payroll costs for RG&E Electric by \$121,000 and RG&E Gas by  
13           \$42,000.

14   Q.    Does the Panel agree with these adjustments proposed by Staff?

15   A.    No. For the same reasons provided in our testimony addressing NYSEG  
16           Transportation Expense, we recommend that the Commission reduce Staff's  
17           payroll adjustment by \$20,000 for RG&E Electric and \$7,000 for RG&E Gas. In  
18           addition, for the same reasons we provided in our prior discussion of NYSEG  
19           Transportation Expense, the Company recommends that the Commission reverse  
20           Staff's material adjustment by increasing transportation costs for RG&E Electric  
21           by \$59,000 and RG&E Gas by \$20,000. The calculations supporting these  
22           adjustments are provided in Exhibits \_\_ (NYSEG/RG&E RGE RRP- 21) Rebuttal  
23           and (NYSEG/RG&E RRP-23) Rebuttal.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. What is the total transportation operating expense increase being recommended  
2 by the Company?

3 A. The Company recommends that the Commission increase total Transportation  
4 Expenses for RG&E Electric by \$79,000 and RG&E Gas by \$27,000.

5 **NEIL Insurance**

6 Q. Please describe Staff's proposal with respect to NEIL insurance.

7 A. Staff does not propose, at this time, any changes to the \$600,000 credit included  
8 as part of RG&E's insurance expense due to refunds projected from NEIL. Staff  
9 recommends that RG&E be allowed to update the refund amount and adjust  
10 insurance expense accordingly when the actual level of 2010 refund is known.  
11 Staff indicates that the amount is expected to be known in March 2010.

12 Q. Does RG&E agree with Staff's recommendation to update the NEIL insurance  
13 amount?

14 A. Yes. Using the most current information to update the refund amount included as  
15 a credit to insurance expense is appropriate. RG&E will provide Staff a copy of  
16 the notification letter from NEIL when the Company receives it. RG&E agrees  
17 that it likely will be received in March, 2010, based on historical practice by  
18 NEIL. Last year's notification was received on March 23, 2009.

19 Q. Does Staff make a further recommendation regarding NEIL insurance credits?

20 A. Yes. RG&E proposed that the amount of NEIL credit be reconciled and the  
21 difference be considered in the Company's proposed DRM mechanism. Staff has  
22 indicated they believe reconciliation is not necessary because updating for the  
23 latest known NEIL refund will provide a reasonable forecast.

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1 Q. Does the Company agree with Staff regarding no reconciliation of the NEIL  
2 amount?

3 A. No. As Staff reflected in its own testimony (page 71, lines 3-5), the annual  
4 amount of NEIL refunds may vary by \$1 million or more from previous year  
5 amounts. This level of volatility, which is completely outside the control of the  
6 Company, is a perfect reason to include a reconciliation. To the extent that the  
7 Commission approves the DRM mechanism, the Company continues to support  
8 including this item in the DRM.

9 **EEMC Allocations**

10 Q. Do you concur with Staff's proposed adjustment to the EEMC Allocation  
11 expenses?

12 A. No. The adjustment proposed by Staff, beginning at page 71 of its testimony,  
13 incorrectly removes Executive Incentive Compensation expenses (including  
14 accrued restricted stock costs) that had already been removed by the Company in  
15 its original filing.

16 Q. Can you please elaborate?

17 A. In its initial filing, the Company removed Executive Incentive Compensation  
18 expense from the amount of O&M expenses it sought to recover in rates. This is  
19 demonstrated on its RRP-2 schedules, where an eliminating adjustment was made  
20 bringing the expenses associated with Executive Incentive Compensation in the  
21 rate year to zero.

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1 Q. How does this relate to the EEMC Allocation expenses?

2 A. The Company made an adjustment to the EEMC Allocation expenses, removing  
3 the impact of Executive Incentive Compensation, as can be seen on RG&E  
4 Workpaper RB-RRP-3A-WP-17 and on NYSEG Workpaper NC-RRP-2C-001  
5 submitted to Staff and the parties.

6 Q. How did the Panel determine that Staff had inadvertently included the Executive  
7 Incentive Compensation expenses in its adjustment?

8 A. Staff's adjustment workpaper, SRRP EEMC Allocations Workpaper, refers to  
9 materials that the Company provided in its original filing outlining EEMC  
10 expenses prior to the removal of Executive Incentive Compensation.

11 Q. Are there other adjustments that need to be made to Staff's EEMC adjustment?

12 A. Yes, a component of the EEMC costs that Staff removed included non-qualified  
13 pension costs ("SERP"). Since Staff has already removed such costs in its  
14 revenue requirement, there is no need for a secondary adjustment. The Company  
15 believes these costs are properly included in rates and has restored the non-  
16 qualified pension costs included in these cost categories.

17 Q. Has the Panel prepared an exhibit demonstrating and quantifying this error?

18 A. Yes. We have prepared Exhibit \_\_ (NYSEG/RG&E RRP-20) Rebuttal, which  
19 demonstrates the error and calculates these necessary corrections.

20 Q. What is the necessary adjustment to correct this error?

21 A. The amount of Staff's adjustment reducing the Company's expenses must  
22 decrease by \$92,000 for NYSEG Gas, \$624,000 for NYSEG Electric, \$111,000  
23 for RG&E Gas and \$220,000 for RG&E Electric.

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1 Q. Has the Panel identified other issues related to Staff's adjustment?

2 A. Yes. Staff mischaracterizes the categories of expenses that it has chosen to  
3 remove, Investor Relations, Shareholder Services and Merger Integration, as non-  
4 recurring due to the recently concluded merger between Iberdrola, S.A. and  
5 Energy East by assuming that these functions are no longer necessary.

6 **NYSEG Electric Transmission Wheeling Expense**

7 Q. Staff proposed on page 74 of its testimony that NYSEG's transmission wheeling  
8 costs be removed from base delivery rates and recovered in NYSEG's NBC.

9 Does the Panel agree with this adjustment?

10 A. The Company does not oppose the Staff adjustment. Similar to Staff's transfer of  
11 wholesale transmission revenues discussed above, this transfer of transmission  
12 wheeling expenses is simply a shift from delivery revenues to the NBC. NYSEG  
13 agrees that these costs can be shifted to the NBC and reconciled monthly through  
14 the NBC adjustment.

15 **Executive Salaries and Benefits**

16 Q. Does the Panel concur with Staff's proposed adjustment to the EEMC Allocation  
17 expenses?

18 A. No. The adjustment proposed by Staff, beginning at page 75 of its Testimony,  
19 incorrectly removes Non-Qualified Pension expenses that it also proposed to  
20 remove in another part of its testimony.

21 Q. Please elaborate.

22 A. As shown on Staff's supporting workpaper, SRRP Labor/Payroll-NYSEG Update  
23 Workpaper, Staff included a line for ERIA/SERP when it eliminated the impact of

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1 retiring executives from the Historic Test Year. These expenses were  
2 subsequently eliminated by Staff in its adjustment of Non-Qualified Pension  
3 expenses starting at page 35 of its testimony.

4 Q. Did you identify any other issues with Staff's adjustment?

5 A. Yes. In adding the salaries associated with newly hired executives, Staff did not  
6 include any expenses associated with three positions, VP-Customer Service, VP-  
7 Operations and VP-Finance and Control.

8 Q. Why did Staff fail to include these expenses in its adjustment?

9 A. In its response to NYRC-0839 (DPS-545), the Company provided salary  
10 information regarding the recently appointed executives; however, as clearly  
11 stated in its response, the Company did not at that time have salary information  
12 for the three positions omitted by Staff.

13 Q. Have you created an exhibit outlining the changes to Staff's adjustment necessary  
14 to correct these errors?

15 A. Yes. Exhibit \_\_ (NYSEG/RG&E RRP-22) Rebuttal provides these calculations.

16 Q. Can you please quantify the impact of these corrections on Staff's adjustment?

17 A. As shown on Exhibit \_\_ (NYSEG/RG&E RRP-22) Rebuttal, these corrections  
18 reduce Staff's adjustment to Executive Salaries and Benefits by \$1,824,790 for  
19 NYSEG Electric, \$270,352 for NYSEG Gas, \$744,897 for RG&E Electric and  
20 \$370,557 for RG&E Gas.

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1           **Operational Staffing**

2           Q.     Do the Companies accept Staff's proposed adjustments for Operational Staffing?

3           A.     Yes, the Companies accede to Staff adjustments for Operational Staffing,  
4                 consistent with the rebuttal testimony of the Companies' Infrastructure Panels.

5           **RG&E Storm Costs**

6           Q.     There are approximately 20 pages of Staff testimony, starting on page 86, and one  
7                 Staff workpaper related to RG&E storm costs. Can you summarize that testimony  
8                 and provide an overall comment?

9           A.     First, as an overall comment, we believe this issue, as well as the NYSEG storm  
10                 issue, are similar to the compliance filing audit issues raised by Staff, and that the  
11                 resolution of these issues should be separated from the rate cases at hand and  
12                 resolved in a separate proceeding or proceedings. To summarize Staff testimony,  
13                 it identifies a number of issues associated with RG&E's storm accounting during  
14                 2009. Staff accurately acknowledges that any issues with RG&E storm  
15                 accounting for the years 2004 through 2008 are included in the compliance filing  
16                 audit section of Staff's case, and are covered later in this rebuttal testimony by the  
17                 Company. Staff, in total, identifies approximately \$346,000 in costs that RG&E  
18                 has purportedly charged against the storm reserve in 2009 that Staff claims should  
19                 be removed from the storm reserve and charged to O&M. Staff also recommends  
20                 that reserve accounting for storms be discontinued at RG&E.

21          Q.     What is Staff's first issue related to the Company's storm reserve accounting?

22          A.     Staff has a different definition for a major storm than the Company has been  
23                 following. The Company has been following the definition set forth in the Joint

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1 Proposal (“JP”) associated with Case 03-E-0765. While Staff quotes from the JP  
2 on page 88 of its testimony, and further goes on to share the definition of a major  
3 storm set forth in 16 NYCRR, Chapter II, Electric Utilities; Subchapter A,  
4 Service; Part 97, Part 97.1(c), it misses a section which virtually identically uses  
5 the Part 97.1(c) definition. The Company does not dispute that the intent of the  
6 JP was to match the Part 97.1(c) definition of a major storm.

7 Q. Given this fact, why does Staff have a different interpretation of a major storm  
8 than the Company?

9 A. Staff’s suggests that the Company’s interpretation is too broad, primarily because  
10 the Company treated an extended period of extreme heat as meeting the major  
11 storm definition of “adverse weather.”

12 Q. Staff mentions several other items, such as cold, fog, humidity and animal  
13 damage as being used by the Company to justify charges to the storm reserve.  
14 What is your reaction?

15 A. The Company believes that Staff, in part, has misunderstood the content of one of  
16 the reports that accompanied information request response SR-06-0034-RGE, that  
17 Staff referenced in its testimony. The attachment, which starts on page 98 of  
18 Staff’s Exhibit \_\_ (SRRP-1A), is a report that identifies all interruptions that took  
19 place between July 11 and July 19, 2005. Not all of these interruptions resulted in  
20 outages whose recovery was treated as part of the storm costs charged against the  
21 storm reserve. The reports that accompanied RG&E response SR-09-0099-RGE  
22 deal only with major storms and do make some references to some of the items  
23 noted in Staff’s testimony, such as animals. The Company’s crews, who are in

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1 the midst of a focused storm recovery effort, report what they believe to be the  
2 primary cause of a specific interruption incident. The portion of the total reported  
3 customer outage hours related to these “unusual” items is miniscule –  
4 approximately 1/10 of 1%, when considering either duration or number of  
5 customer outages as a base. Therefore, even if the Staff concern was realistic, the  
6 amount of dollars associated with these types of causations would be immaterial.  
7 Exhibit \_\_ (RG&E RRP-15) Rebuttal summarizes the information found in the  
8 RG&E response SR-09-0099 which Staff has used in attempting to support this as  
9 an issue. Please note that in its Exhibit, the Company has started with those  
10 causation descriptions that were specifically noted in Staff’s response to IR  
11 NYSEG-RGE-43, Attachments 1 and 2, and removed those items that in the  
12 Company’s opinion are clearly storm-related to arrive at its bottom line  
13 percentages.

14 Q. Does the Company believe that a period of extreme heat qualifies as adverse  
15 weather under the Part 97.1(c) definition of a major storm?

16 A. Yes. Extreme heat for an extended period can cause system issues that go beyond  
17 the normal design criteria for a transmission and distribution system in the  
18 northeast part of the United States.

19 Q. Should the Commission ignore Staff’s attempt, on pages 89-90, to modify Part  
20 97.1(c) by claiming a heat wave needs to meet an American Heritage dictionary  
21 definition of a “storm” before it could be considered adverse weather?

22 A. Yes. This type of weather is “adverse” and fits within the definition of a storm.  
23 The Company’s view is supported by common sense and if the Commission were

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1 to ask an ordinary customer if they consider a period of four consecutive days of  
2 90 degree weather, with high humidity, “adverse weather,” the answer would  
3 likely be yes.

4 Q. What is Staff’s second identified issue with respect to the Company’s 2009 storm  
5 reserve accounting?

6 A. On pages 90-91, Staff claims the Company has identified a particular storm from  
7 February 2009 as a major storm because it lasted 24 hours and 1 minute. Staff is  
8 correct that the Company identified this storm in that manner because it met the  
9 Part 97.1(c) definition of a major storm. As a part of their disagreement over this  
10 classification, Staff has indicated that the Company should remove \$142,335 from  
11 the storm reserve account.

12 Q. What is Staff’s third identified issue with respect to the Company’s 2009 storm  
13 reserve accounting?

14 A. Staff indicates, starting on page 92, that the Company should not interpret the  
15 materiality threshold of \$250,000 as an all-in cost of a storm, despite the JP  
16 language which clearly states that “restoration efforts costing less than \$250,000  
17 will not be included in the definition of Major Storms.”

18 Q. Is Staff accurate in their position that the Company changed its interpretation of  
19 the \$250,000 materiality threshold?

20 A. No. The Company has always viewed the threshold as an “all-in” threshold,  
21 consistent with the JP language.

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1 Q. Staff goes on to imply that the Company interpretation results in a double  
2 recovery of costs. Is Staff's implication correct?

3 A. No. The Company only charges against the storm reserve those incremental  
4 O&M costs that are typically a subset of the overall costs of storm restoration,  
5 which would include capital costs as well as non-incremental O&M costs. The  
6 Company believes it is properly applying the JP language for determining  
7 whether a storm reaches the materiality threshold by comparing the total  
8 restoration costs to the \$250,000 threshold. There is no double recovery because  
9 the Company is only deferring the incremental O&M costs, not the capital and  
10 non-incremental O&M costs.

11 Q. What other storm related issues has Staff raised?

12 A. Staff suggests on page 95 that the Company should not be recovering vegetation  
13 management costs that are separately allowed in rates through a storm reserve.  
14 While not covered directly in testimony, the Company's review of Staff  
15 workpaper B14.RRP shows that Staff is recommending disallowance of  
16 approximately \$49,000 of 2009 "Contractor-Vegetation" costs, as well as another  
17 \$150,000 of "Contractor-Vegetation" costs for years preceding 2009.

18 Q. What is the Company's opinion of this proposed vegetation-related cost  
19 disallowance?

20 A. Staff's adjustment and disallowance are wrong. The type of vegetation work  
21 being performed by contractors during a storm restoration does not replace the  
22 normal vegetation management activities conducted by the Company outside of a  
23 storm restoration. If the Commission or Staff had wanted some type of a true-up

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1 around normal vegetation management activity costs, they would have instituted  
2 it at the time of the rate plan. Anything done at this time would represent  
3 retroactive ratemaking and should be expediently dismissed by the Commission.  
4 The Commission should reject Staff's \$199,000 total disallowance for this item.

5 Q. What is Staff's next area of disallowance?

6 A. Staff, on pages 95-96, properly identifies that only incremental labor should be  
7 charged against the RG&E storm reserve. Staff goes on to disallow \$92,331 of  
8 primarily straight time labor from the storm reserve. This appears to be an  
9 innocent error by Staff, since the straight time labor charged against the RG&E  
10 storm reserve account was either for straight time labor of NYSEG crews who  
11 had been called on to assist in the storm restoration effort, or was RG&E labor  
12 that, while tracked in the tracking number for the storm, was not ultimately  
13 charged against the storm reserve by the Company. NYSEG crew straight time  
14 labor would clearly be incremental to RG&E in the same way straight time  
15 mutual aid from other utilities or straight time contractor crew costs would be  
16 incremental. RG&E straight time labor that was never charged against the storm  
17 reserve cannot be disallowed at this time. Based on this clarification, Staff's  
18 overall \$92,331 disallowance should not be adopted.

19 Q. What does Staff next address relating to storm accounting?

20 A. Staff, on pages 97-98, seeks to disallow fleet utilization costs from storm reserve  
21 accounting. As noted on Staff's workpaper, this disallowance totaled over  
22 \$128,000 for 2009 alone, with additional disallowances in prior years.

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1 Q. Why is Staff's logic flawed with respect to fleet utilization?

2 A. In the absence of a storm, the corporate fleet would be used under normal  
3 operating conditions – which are basically on straight time labor capital and O&M  
4 jobs. During a storm restoration effort, the fleet is used constantly, for both  
5 straight time and overtime and under conditions that are much more extreme than  
6 normal day-to-day conditions. While we can see some logic in fleet costs  
7 associated with straight time labor possibly being considered non-incremental, we  
8 cannot understand why charged fleet use for overtime work would ever be  
9 considered non-incremental.

10 Q. Is there any other evidence that suggests Staff is overreaching with its redefinition  
11 of fleet costs as being 100% non-incremental when associated with a storm?

12 A. Yes. RG&E, prior to the implementation of storm reserve accounting in 2004,  
13 had experienced several major storms and related restoration efforts for which it  
14 sought deferral treatment. The last two deferral petitions for storm restoration  
15 costs were filed in 1991 and in 2003, both for the recovery of costs associated  
16 with a major ice storm. Certain transportation costs were included in those  
17 petitions for recovery, and the deferral recovery for each was granted by the  
18 Commission.

19 Q. Does Staff recommend discontinuing storm reserve accounting and suggest a  
20 return to the practice of submitting deferral petitions for storm restoration costs?

21 A. Yes.

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1 Q. Do you agree with that recommendation?

2 A. No. The Company believes Staff's reasons for making this recommendation,  
3 which are centered on Staff's claim of "frequent and sizable abuses" in major  
4 storm reserve accounting treatment by the Company, are completely exaggerated  
5 and unfounded. As we testified earlier, there are some disagreements in the  
6 interpretation of the definition of major storms between the Company and Staff.  
7 The discontinuation of storm reserve accounting in and of itself would not solve  
8 any of these disagreements. Also, as we testified previously, Staff's  
9 characterization of the frequency of so-called "questionable" charges that are  
10 designated as animal contacts are so few as to be nearly non-existent. Once again,  
11 the presence or absence of storm reserve accounting would not impact the  
12 frequency of such charges, as we explained earlier in this testimony. The issue of  
13 the interpretation of the dollar threshold is one that could be resolved by a more  
14 specific definition, but it also is not dependent on the presence or absence of  
15 storm reserve accounting.

16 Q. Is Staff correct in its assertion on page 98 that their proposed accounting  
17 treatment will shift the burden back to RG&E to prove that major storm costs  
18 meet the tests for deferral?

19 A. No. This is a burden that the Company already bears under the reserve  
20 accounting techniques followed today. The need for this rebuttal testimony is one  
21 example of the Company bearing that burden. Staff would need to do a complete  
22 audit of the costs deferred by the Company in the same way they need to do a  
23 complete audit of the costs charged against the storm reserve by the Company.

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1           The Company also views the filing of separate deferral petitions as an  
2           unnecessary administrative burden on the Company's and the Commission's  
3           resources. Reserve accounting issues should and can be resolved within imposing  
4           additional administrative process.

5   Q.   Staff goes on to recommend, starting on page 100, that a number of changes be  
6           made to the language and definitions governing major storms, if the Commission  
7           continues reserve accounting for storms at RG&E. Do you agree with Staff's  
8           recommendations regarding changes to the definitions governing major storms?

9   A.   We will react to each of Staff's specific recommendations as follows:

10       a.   Staff suggests changing the Part 97.1(c) definition of a major storm by  
11           removing the word "or" and making the criteria for a major storm require  
12           an event that lasts for 24 hours and affects 10% of customers. This is not  
13           a simple typographical change and such a variance from the regulations  
14           without comparable definitional changes for all utilities in New York State  
15           would violate due process and discriminate against the Company. In  
16           addition, a full analysis of the impact this definition change would have on  
17           the Customer Average Interruption Duration Index ("CAIDI") and System  
18           Average Interruption Frequency Index ("SAIFI") standards and thresholds  
19           for the Company would be required, to the extent that this definition were  
20           adopted for reliability tracking purposes. The Company is aware that  
21           Staff, in its response to NYSEG-RGE-116, indicates that the major storm  
22           definition for purposes of reliability measurements would stay consistent  
23           with the Part 97.1(c) definition. The Company believes that inconsistent

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1 definitions of major storms for purposes of reliability versus cost recovery  
2 would create confusion and administrative overhead that does not  
3 currently exist.

4 b. Staff suggests further changing the Part 97.1(c) definition by limiting an  
5 event to be considered a major storm only those events caused by snow,  
6 ice, wind, rain and lightning. Once again, the Company cannot agree to  
7 such a significant change without full due process and analysis.

8 c. Staff recommends that the materiality threshold for a storm be \$250,000,  
9 inflated from July 2004 through February 30, 2009. The Company  
10 assumes that Staff meant February 28, 2009, and recognizes that Staff has  
11 included a \$300,000 threshold amount in its Exhibit \_\_ (SRRP-8) for this  
12 item. In general, we do not disagree with setting an appropriate  
13 materiality threshold that would be applicable to the Company's ability to  
14 charge agreed-upon costs against the storm reserve. We do not believe,  
15 however, that this item would need to be part of the definition of a major  
16 storm for purposes of SAIFI and CAIDI calculations, and based on Staff's  
17 response to NYSEG-RGE-116, we understand that Staff shares this belief.

18 d. Staff recommends prohibition of deferral of costs related to other acts of  
19 god and occurrences such as animal disturbances, heat overloads,  
20 defective equipment, and human error. We cannot support any such  
21 broad-based prohibition of deferrals. Any company should be able to seek  
22 deferral for costs under the Commission's deferral rules, no matter what

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1                   the cost causation was, and the Commission remains free to decide  
2                   whether or not the costs are properly deferrable at that time.

3           e.       The Staff Panel recommends exclusion of certain costs it would deem  
4                   non-incremental. We agree that costs which are truly non-incremental  
5                   compared to what is allowed in rates should not be considered deferrable  
6                   or chargeable against a major storm reserve. We do not agree, however,  
7                   with the list of non-incremental costs proposed by Staff. The Company  
8                   would be willing to meet collaboratively to discuss development of an  
9                   appropriate list of excluded items.

10          f.       Staff states that vegetation management and similar costs are non-  
11                   incremental costs. We cannot disagree more with this position. The  
12                   Company in this instant proceeding is recommending that non-storm-  
13                   related vegetation management costs be trued-up in a symmetrical, two-  
14                   way reconciliation. If this reconciliation is in place, it would obviate the  
15                   need to consider vegetation-related costs incurred as part of storm  
16                   restoration as anything other than incremental costs.

17   Q.       What level of storm costs is Staff suggesting the Company be granted in rates?

18   A.       Staff suggests that the historical level of \$2 million be included in rates for major  
19                   storms, assuming reserve accounting is continued. Staff rejects the Company  
20                   proposal to include minor storms in the reserve accounting.

21   Q.       Do you agree with this \$2 million level?

22   A.       Under the assumption that the Commission would allow reserve accounting for  
23                   only major storms, the Company would accept this \$2 million level, along with

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 the Staff-recommended adjustment to add back minor storm-related costs to other  
2 categories of costs.

3 Q. Does Staff introduce one more definitional criterion into its testimony?

4 A. Yes. Staff wants to further limit the definition of major storms to be major within  
5 a district. In other words, Staff is saying that any dollar threshold, customer count  
6 threshold, and time frame threshold needs to be met within individual districts,  
7 even if the storm event is the same one that happens to impact multiple districts.

8 Q. Does the Company agree with this approach?

9 A. No. A threshold for costs should be for a single storm event. The Company has  
10 four operating districts, and it is hypothetically possible that a single storm event  
11 (which impacts more than 10% of the customers in each district and which has  
12 customers in each district out for more than 24 hours) would impact all four  
13 districts. It is also hypothetically possible that each district could incur \$294,000  
14 of incremental restoration costs due to that one storm event. The result under  
15 Staff's proposed \$300,000 threshold discussed above would be for the Company  
16 to absorb over \$1 million of incremental costs associated with that single event,  
17 which would be inappropriate.

18 Q. Can you please summarize your overall reactions to Staff's RG&E storm  
19 recommendations?

20 A. Yes. The Company continues to support reserve accounting for storms, continues  
21 to support the use of the Part 97.1(c) definition of major storms, and asks the  
22 Commission to deny virtually all of the disallowances posited by Staff in their  
23 testimony.

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**NYSEG Storms – Storm Reserve Account**

1  
2 Q. Before beginning comprehensive rebuttal on the topic of NYSEG storm  
3 accounting, do you have any general comments?

4 A. Yes. We are surprised that the Staff would wait until they submitted their  
5 testimony in this proceeding to bring up issues associated with NYSEG storm  
6 reserve accounting with the Company. The storm reserve accounting practices  
7 that NYSEG has followed have been in place for over three years and were shared  
8 with Staff in a required filing made in September 2006. Given the extremely  
9 short period available to the Company for preparing rebuttal testimony, we urge  
10 the Commission to separate this issue from the rate cases at hand so that it can be  
11 fully addressed and resolved in a separate proceeding or proceedings.

12 Q. Was the Staff accurate in its testimony, on page 106, that NYSEG was required to  
13 submit an accounting plan in Case 05-E-1222 that included reserve accounting for  
14 storms?

15 A. Yes. A copy of that plan, which was submitted to the then Director of  
16 Accounting and Finance, Charles M. Dickson, on September 22, 2006, is attached  
17 to this testimony as Exhibit \_\_ (NYSEG RRP-16) Rebuttal.

18 Q. Staff indicates, on page 108 of its testimony, that a November 10, 2006 letter to  
19 Company witness Syta informed him about certain questions and concerns Staff  
20 had in this area. Does the Panel agree with this characterization of the letter?

21 A. No. A copy of the letter referred to is attached to this testimony as Exhibit \_\_  
22 (NYSEG RRP-17) Rebuttal. As can be seen, the letter specifically seeks  
23 “clarification of your filing,” and does not in any way indicate that Staff has any

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1           “concerns” with the Company’s planned accounting. The letter goes on to pose a  
2           series of questions, which the Company converted to a series of informal  
3           information requests. Responses to each of these information requests were  
4           provided by the Company on November 21, 2006 and are provided as Exhibit \_\_  
5           (NYSEG RRP-18) Rebuttal. Since the November 10, 2006 letter does not  
6           indicate Staff had concerns, we cannot at this time agree with the characterization  
7           Staff has made in its testimony.

8   Q.    Did Staff follow up with the Company after NYSEG had provided the responses  
9           to the series of information requests attached as Exhibit \_\_ (NYSEG RRP-18)  
10           Rebuttal in November 2006, to inform the Company that Staff was not satisfied  
11           with or had specific concerns with NYSEG’s planned accounting for storms?

12   A.    Not until more than three years later, when the Company received Staff’s  
13           testimony in January 2010.

14   Q.    Staff continues in its testimony, starting on page 108, line 18, by suggesting that  
15           somehow the Company should have changed its accounting plan to address  
16           Staff’s concerns. Is this a reasonable position?

17   A.    No. As described previously, the Company was not aware that Staff had specific  
18           concerns with NYSEG’s storm accounting until it read Staff’s testimony in this  
19           proceeding. Therefore, the Company would have had no reason to change its  
20           accounting plan.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. How does the Staff Panel proceed through the remainder of this section of its  
2 testimony?

3 A. Staff identifies five major areas of adjustments to the amounts that NYSEG had  
4 charged against the storm reserve account and recommends that the Company  
5 incur a one-time charge of nearly \$26 million to remove those costs from the  
6 storm reserve.

7 Q. What is the first area of adjustment proposed by Staff?

8 A. Staff identifies a \$3,962,095 adjustment to remove so-called “questionable”  
9 charges from the storm reserve. This adjustment was subsequently modified to  
10 \$3,935,095 as part of Staff’s response to IR NYSEG-RGE-43.

11 Q. Has Staff specified how it arrived at its questionable charge adjustment amount?

12 A. Staff, in its testimony, refers to two Company-provided information request  
13 responses as being the source for their amount.

14 Q. Did the Company ask for more specific information on how the amount was  
15 calculated?

16 A. Yes. The Company asked Staff in an information request on January 25, 2010 to  
17 provide the details and support for the amount. The Staff response to that IR,  
18 NYSEG-RGE-43, is attached as Exhibit \_\_ (NYSEG RRP-29) Rebuttal.

19 Q. Do you agree with Staff’s calculation methodology?

20 A. No. The Company’s good faith storm repair actions to report and capture costs  
21 while major and minor storm repairs are occurring and to appropriately charge  
22 those costs against the storm reserve has not been recognized by Staff. .

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. Has Staff sought to specify certain types of costs and items reported by the  
2 Company as not being includable in storm costs?

3 A. Yes.

4 Q. What are some of the items Staff has identified?

5 A. Staff has indicated that items associated with customer outages with reasons  
6 described as “Conductor Down – Accident/Non-Utility,” “Defective Equipment,”  
7 “Loss of Supply – Foreign Utility,” and “Pole Damage/Failure – Accident/Non-  
8 Utility,” among others, should not be considered part of the storm costs.

9 Q. What is the Company’s view on these items?

10 A. When working on storm restoration activities, Company personnel do their best to  
11 identify some of the causes for outages that are found during the course of that  
12 restoration work. Generally speaking, virtually every outage that happens during  
13 the time frame of a storm restoration can be traced back to the storm being the  
14 ultimate/root cause, no matter what specific code is placed on a piece of paper by  
15 a harried crew in the field. For example, the code “Defective Equipment” means  
16 that when a crew comes upon an item that is not working and needs to restore  
17 service during a storm, none of the other available codes seemed to fit at the time.  
18 Thus, a crew would simply code it as defective and made the necessary repair to  
19 restore service to the customer or customers impacted by that piece of equipment  
20 not working due to the storm. The Company has attached Exhibit \_\_ (NYSEG  
21 RRP-15) Rebuttal, which analyzes the Staff response to the Company’s IR on this  
22 issue, excludes those reasons/items which the Company feels clearly meet any

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1 reasonable person's interpretation of being storm-related and recalculates Staff's  
2 adjustment accordingly.

3 Q. What are the results of the Company's calculation?

4 A. Accepting that some of the designations may be questionable in terms of pure  
5 storm-related restoration, the Company arrives at a possible amount of  
6 "questionable" costs as \$320,000, made up of the \$136,000 calculated on  
7 Attachment 1 plus \$184,000 calculated on Attachment 2 of Exhibit \_\_ (NYSEG  
8 RRP-15) Rebuttal. Clearly this amount is immaterial when compared to the more  
9 than \$60 million of storm costs incurred in the 2007-2009 time frame being  
10 discussed.

11 Q. What is your recommendation to the Commission?

12 A. We recommend that the entire amount of the Staff-proposed adjustment for  
13 questionable charges be rejected on the grounds that all restoration activities that  
14 occur during a storm restoration time frame can basically be considered caused by  
15 the storm. If the Commission were to decide that the few categories or reasons  
16 identified by the Company as possibly questionable and included on Company  
17 Exhibit \_\_ (NYSEG RRP-15) Rebuttal should be considered unrelated to storms,  
18 then the total adjustment adopted should be only \$320,000, or about \$3.6 million  
19 less than what Staff has proposed.

20 Q. What is the next adjustment proposed by Staff?

21 A. Essentially, Staff proposes that the Company write off more than \$9 million of  
22 straight-time labor costs that were charged to the storm reserve over the 2007-  
23 2009 timeframe.

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1 Q. Why is Staff's rationale for this adjustment flawed?

2 A. The Company, starting with its accounting plan in September 2006, and as  
3 identified in its responses to the questions raised by Staff in November 2006,  
4 indicated its intent to charge straight-time labor against the storm reserve.

5 Q. Does Staff identify that the Company's accounting plan for storm reserves  
6 included the charging of straight time labor to the storm reserve?

7 A. Effectively, yes. On page 113, line 9, Staff asks the question of themselves,  
8 "Does Staff agree with this interpretation?" While they answer the question with  
9 a "No," this is the first time Staff has indicated specific disagreement with the  
10 accounting methodology that had been in place for over three years at NYSEG.

11 Q. Why is charging of straight-time labor against the storm reserve appropriate?

12 A. As mentioned in the Company IR response quoted by Staff, employees charge  
13 their time against storms since that is the activity where they spent their time. The  
14 rate allowance amount was developed by including all straight-time payroll that  
15 was charged to storms in the test year. The Company's reserve accounting plan  
16 clearly indicates all of the costs embedded in the rate allowance level. The time  
17 spent on storms by various crews and other employees means time not spent by  
18 the employees doing normal work activities during those straight time hours.  
19 That work ultimately needs to get done, and is most likely done by other  
20 employees working overtime, and/or backfilling on a short term basis with  
21 contract employees, and/or having the same employees who worked on the storm  
22 work overtime to catch up on the activities they were not able to do while they  
23 were committed to storm restoration efforts. All of these are incremental costs to

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1 the Company. Staff has narrowly defined what it considers to be the appropriate  
2 costs to be included in the storm reserve. The rate allowance amount included  
3 straight time labor and therefore all labor costs associated with storm restoration  
4 are appropriately charged to the account. Staff attempts to redefine the  
5 components of the rate allowance after the fact. Staff's proposed treatment is  
6 patently inequitable and one of the reasons the credit agencies do not view New  
7 York regulation favorably. The Company filed its reserve accounting plan based  
8 on the Commission Order. Staff should not be allowed to wait over three years  
9 before bringing up issues.

10 Q. What is your recommendation to the Commission?

11 A. The Company recommends, for the reasons described above, that the entire  
12 amount of the Staff-proposed adjustment for straight time labor charges be  
13 rejected.

14 Q. What is Staff's third area of adjustments to the NYSEG storm reserve?

15 A. Staff makes an adjustment of \$4.9 million for fleet utilization costs.

16 Q. Does Staff use the same logic as it has for a similar adjustment at RG&E?

17 A. Yes.

18 Q. Do you feel the same way about the NYSEG-proposed adjustment as you did with  
19 respect to the RG&E-proposed adjustment?

20 A. Yes. In the absence of a storm, the corporate fleet would be used under normal  
21 operating conditions, which are basically on straight time labor capital and O&M  
22 jobs. During a storm restoration effort, the fleet is used constantly, for both  
23 straight time and overtime, and under conditions that are much more extreme than

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1 normal day-to-day conditions. These costs were also included in the rate  
2 allowance provided in the 2006 rate case. Staff again creates a new interpretation  
3 of the costs to be included and those costs which cannot be charged to the reserve.  
4 In addition, there is no logic why charged fleet use for overtime work would ever  
5 be considered non-incremental.

6 Q. What is your recommendation to the Commission?

7 A. We recommend that the entire amount of the Staff-proposed adjustment for fleet  
8 utilization charges be rejected, for the reasons described above.

9 Q. What is Staff's fourth area of adjustments to NYSEG's storm reserve?

10 A. Staff adjusts the storm reserve for \$4.38 million, an amount it testifies to on page  
11 119, lines 24-26, as the amount the Company has under-spent for tree trimming.

12 Q. Isn't this similar to a claim made for RG&E storm reserve accounting?

13 A. Yes.

14 Q. Is the Company's position the same for NYSEG as it is for RG&E?

15 A. Absolutely. Staff's adjustment and disallowance is wrong. The type of  
16 vegetation work done by contractors during a storm restoration does not replace  
17 the normal vegetation management activities conducted by the Company outside  
18 of a storm restoration. If the Commission or Staff had wanted some type of a  
19 true-up around normal vegetation management activity costs, they would have  
20 instituted it at the time of the order in the latest NYSEG electric case. Anything  
21 done at this time would represent retroactive ratemaking and should be soundly  
22 and expediently dismissed by the Commission. We recommend that the entire  
23 amount of Staff's \$4.38 million disallowance for this item be rejected.

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1 Q. What is the last item that Staff has identified as an adjustment?

2 A. The Staff Panel has indicated on page 120 of its testimony that approximately  
3 \$3.7 million in costs that were associated with storms that occurred during years  
4 preceding 2007 were inadvertently charged against the storm reserve and should  
5 be removed from the reserve.

6 Q. Do you agree with Staff's adjustment?

7 A. Yes. The Company agrees that it charged storm-related costs against the storm  
8 reserve in 2007 that it did not realize were related to pre-2007 storms and will  
9 make the appropriate adjustment to the reserve. The Company also agrees, as  
10 appropriate, to adjust the ASGA for any related earnings sharing adjustments that  
11 would need to be recognized, including any appropriate carrying charges. This  
12 would be necessary if costs were to be moved from 2007 to a prior year in which  
13 the NYSEG electric business had exceeded its earnings sharing threshold and was  
14 sharing the excess with customers.

15 Q. Does the Company have an estimate of what the adjustment to the storm reserve  
16 should be?

17 A. The Company has not had enough time to complete its analysis of all of the  
18 charges that occurred in 2007 to the storm reserve. Staff has identified hundreds  
19 of items that will need to be reviewed individually. The Company believes the  
20 adjustment to the reserve will likely be more than \$2 million, before the effect of  
21 any earnings sharing, and would agree to provide Staff with a full accounting of  
22 that adjustment once the work is complete.

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1 Q. In the intervening time period, what action should the Commission take with  
2 respect to this issue?

3 A. The Company should complete its analysis long before the Commission is  
4 expected to rule on the rate cases or on any separate proceeding initiated to deal  
5 with these issues. Accordingly, we suggest that this particular issue be the subject  
6 of a separate compliance filing to the Commission, which would be reviewed by  
7 Staff and ultimately approved by the Commission.

8 Q. The Staff Panel concludes this section of its testimony with a recommendation to  
9 the Commission to reject the Company proposal to use the PBA balance to offset  
10 the storm reserve balance at the start of the rate year and instead to amortize the  
11 balance over three years. Do you agree with Staff?

12 A. No. The Company stands by its original proposal, which is to offset the balance  
13 in the reserve with PBAs.

14 **NYSEG Storms Rate Allowance**

15 Q. Does Staff suggest a discontinuance of storm reserve accounting for NYSEG  
16 storms?

17 A. Yes. In a similar fashion to its comparable recommendation for RG&E.

18 Q. In addition to the similar issues raised for RG&E, does Staff bolster its position  
19 with another point?

20 A. Yes. Staff, in its testimony on page 123, attempts to claim that NYSEG is doing  
21 something untoward when it establishes cost tracking numbers for “next storm  
22 costs.” Staff seems to believe that this practice encourages NYSEG to not  
23 perform normal maintenance, as noted on page 124, line 11.

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1 Q. Why does NYSEG set up “next storm” numbers?

2 A. It does this as an administrative expediency. Storms do not always occur during  
3 normal business hours and it is convenient for crews and other employees who are  
4 reacting to an imminent or active storm event to have a charge number that they  
5 can begin to use when withdrawing materials from stock, recording time, or  
6 making arrangements with vendors or contractors. This fact was described in  
7 NYSEG’s response to Staff, which is referenced in Staff testimony on page 123  
8 starting on line 23.

9 Q. Staff goes on to opine, on page 124, starting on line 24, that “reserve accounting  
10 presents potential dangers for maintenance of the Company’s distribution  
11 system.” What is the Company’s reaction to this Staff opinion?

12 A. We strongly disagree with this conclusion. Reserve accounting has been in use in  
13 the utility industry for decades, and we are not aware of any argument being  
14 raised that it creates a danger to the distribution system.

15 Q. Is the remainder of Staff’s testimony related to NYSEG reserve accounting  
16 similar to its testimony for RG&E?

17 A. Yes. Staff has recommended the discontinuation of storm reserve accounting at  
18 both RG&E and NYSEG. Staff notes on page 125, starting at line 5, that if the  
19 Commission were to allow reserve accounting, “it must be clarified to minimize  
20 any differences and should be consistently apply to both companies.” Staff  
21 further notes on page 125, starting on line 12, that “the same set of criteria and  
22 definitions would be implemented at both NYSEG and RG&E.”

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1 Q. Are your positions the same as you describe earlier in this testimony when  
2 discussing the same issues for RG&E?

3 A. Yes. At the risk of some redundancy, we will briefly reiterate those positions.

4 Q. Is Staff correct in its assertion on pages 122-23 that their proposed accounting  
5 treatment will shift the burden back to the Company to prove that major storm  
6 costs meet the tests for deferral?

7 A. No. This is a burden that the Company already has under the reserve accounting  
8 techniques followed today. The need for this rebuttal testimony is one example of  
9 the Company bearing that burden. Staff would need to do a complete audit of the  
10 costs deferred by the Company in the same way Staff needs to do a complete  
11 audit of the costs charged against the storm reserve by the Company. The filing  
12 of separate deferral petitions is an unnecessary administrative burden on the  
13 Commission's resources and schedule, particularly when reserve accounting  
14 issues should be able to be resolved within the context of already existing  
15 proceedings without creating new Commission proceedings.

16 Q. Do you agree with Staff's recommended changes that Staff feels are required if  
17 the Commission were to allow reserve accounting for storms at NYSEG?

18 A. The Company has various levels of disagreement, as noted here:

19 a. Staff suggests changing the Part 97.1(c) definition of a major storm by  
20 removing the word "or" and making the criteria for a major storm require  
21 an event that lasts for 24 hours and affects 10% of customers. This is not  
22 a simple typographical change and such a variance from the regulations  
23 without comparable definitional changes for all utilities in New York State

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1           would violate due process and discriminate against the Company. The  
2           same logic discussed in the RG&E response to this same question applies  
3           when considering the definition of storms for reliability purposes.

4           b.     Staff suggests further changing the Part 97.1(c) definition by limiting an  
5           event to be considered a major storm to only those events caused by snow,  
6           ice, wind, rain and lightning. Once again, the Company cannot condone  
7           such a significant change without full due process and analysis.

8           c.     Staff recommends that the materiality threshold for a storm be \$300,000.  
9           In general, we do not disagree with setting an appropriate materiality  
10          threshold that would be applicable to the Company's ability to charge  
11          agreed-upon costs against the storm reserve. We do not believe, however,  
12          that this item would need to be part of the definition for a major storm for  
13          purposes of SAIFI and CAIDI calculations, and based on Staff's response  
14          to NYSEG-RGE-116, we understand that Staff shares this belief.

15          d.     Staff recommends the prohibition of deferral of costs related to other acts  
16          of god and occurrences such as animal disturbances, heat overloads,  
17          defective equipment, and human error. We cannot support any such  
18          broad-based deferral prohibition. Any company should be able to seek  
19          deferral for costs under the Commission's deferral rules, no matter what  
20          the cost causation was, and the Commission remains free to decide  
21          whether or not the costs are properly deferrable at that time.

22          e.     The Staff Panel recommends exclusion of certain costs it would deem  
23          non-incremental. We agree that costs which are truly non-incremental

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1 compared to what is allowed in rates should not be considered deferrable  
2 or chargeable against a major storm reserve. We do not agree, however,  
3 with the list of non-incremental costs proposed by Staff. The Company  
4 would be willing to meet collaboratively to discuss development of an  
5 appropriate list of excluded items.

6 f. Staff states that vegetation management and similar costs are non-  
7 incremental costs. We cannot disagree more with this position. The  
8 Company in this instant proceeding is recommending that non-storm  
9 related vegetation management costs be trued-up in a symmetrical, two-  
10 way reconciliation. If this reconciliation were in place, it would obviate  
11 the need to consider vegetation-related costs incurred as part of storm  
12 restoration as anything other than incremental costs.

13 Q. What level of storm costs is Staff suggesting the Company be granted in rates?

14 A. Staff suggests that an adjusted historical level of \$10.5 million be included in  
15 rates for major storms, assuming reserve accounting is continued. Staff rejects the  
16 Company's proposal to include minor storms in the reserve accounting.

17 Q. Do you agree with this \$10.5 million level?

18 A. Under the assumption that the Commission would allow reserve accounting for  
19 only major storms the Company would accept this \$10.5 million level and would  
20 agree that costs associated with minor storms would be moved back into the other  
21 cost categories they had been taken from as part of the Company's filing.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. Does Staff introduce one more definitional criterion into its testimony?

2 A. Yes. Staff wants to further limit the definition of major storms to be major within  
3 a district. In other words, Staff is saying that any dollar threshold, customer count  
4 threshold, and time frame threshold needs to be met within individual districts,  
5 even if the storm event is the same one that happens to impact multiple districts.

6 Q. Do you agree with this approach?

7 A. No. A threshold for costs should be for a single storm event. The Company has  
8 thirteen operating districts, and it is hypothetically possible that a single storm  
9 event (which impacts more than 10% of the customers in each district and which  
10 has customers in each district out for more than 24 hours) would impact several of  
11 its districts. It is hypothetically possible that if four districts were affected, each  
12 district could incur \$294,000 of incremental restoration costs due to that one  
13 storm event. The result under Staff's proposal would be for the Company to  
14 absorb over \$1 million of incremental costs associated with that single event,  
15 which would be inappropriate. Staff's proposed adjustment should be rejected.

16 Q. Can the Panel please summarize its reactions to Staff's RG&E storm  
17 recommendations?

18 A. Yes. The Company continues to support reserve accounting for storms, continues  
19 to support the use of the Part 97.1(c) definition of major storms, and asks the  
20 Commission to deny virtually all of the disallowances posited by Staff in their  
21 testimony.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1           **Environmental Remediation**

2           Q.     Can you please briefly describe Staff’s adjustments to the level of Environmental  
3           Remediation expenses to be recovered in NYSEG’s and RG&E’s rates?

4           A.     In its testimony, beginning on page 128, Staff agrees with the Company’s  
5           proposed level of expenses for NYSEG and significantly reduces those proposed  
6           for RG&E.

7           Q.     Do you agree with Staff’s proposed changes to the Company’s rate year level of  
8           expenses for RG&E?

9           A.     No. By basing its forecasted level of RG&E’s rate year expenses on a three-year  
10          historical average, Staff has overlooked a number of expenses that the Company  
11          will experience during that time. In fact, Staff’s \$9.501 million adjustment to the  
12          Company’s proposed rate year levels would bring the amount provided for in  
13          rates below the expenses recorded by the Company during the Historical Test  
14          Year.

15          Q.     Can you please elaborate further?

16          A.     Yes. The majority of the Company’s projected costs are directly related to  
17          investigation and implementation of actual site remediation. RG&E has  
18          negotiated a forward-looking schedule with the New York State Department of  
19          Environmental Conservation (“DEC Schedule”) to investigate seven former  
20          manufactured gas plant sites during the rate year. The DEC Schedule is  
21          reasonable and prudent to address the risks posed by these sites to human health  
22          and the environment. Commitments to advance these sites have also been made

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1 to various stakeholders, such as local governments, property owners and the  
2 public.

3 Q. Have you reviewed the Company's initial forecast to identify any costs that could  
4 be deferred into future years?

5 A. Yes. The Company has prepared Exhibit \_\_ (RG&E RRP-10) Rebuttal, which  
6 outlines three adjustments that we believe could be made to the Company's initial  
7 forecast that would reduce rate year expenses by approximately \$2.8 million.  
8 These adjustments represent the limit to which the Company believes it can  
9 reduce rate year expenses while still meeting the DEC Schedule and its other  
10 environmental-related commitments.

11 Q. Can you please describe the impact these adjustments would have on the  
12 Company's proposed level of rate year expenses?

13 A. These adjustments will reduce the Company's proposed level of rate year  
14 expenses by \$1,859,864 for RG&E Electric and \$941,136 for RG&E Gas.

15 Q. What are the appropriate corrections to be made to Staff's proposed adjustment?

16 A. Staff's adjustments must be reduced by \$4,458,000 for RG&E Electric and  
17 \$2,243,000 for RG&E Gas to ensure the appropriate level of expenses is reflected  
18 in the amounts to be provided for in rates.

19 **Integrity Gas Pipeline Costs**

20 Q. Do the Companies agree with Staff's proposed reductions in the rate year  
21 expenses associated with the Integrity Gas Pipeline programs?

22 A. No. Staff premises its reductions on an assumption that most of the new  
23 requirements associated with these programs will not be in effect until August

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1           2011, and therefore the costs associated will not occur until then. This is an  
2           incorrect assumption.

3   Q.    Why is Staff's assumption incorrect?

4   A.    Much of the incremental work required as part of the federal and state integrity  
5           management programs is required to be completed during the rate year. In order  
6           to complete the written integrity management plan by the required deadline of  
7           August 2, 2011 (refer to Staff Revenue Requirement Panel testimony page 139,  
8           line 13), a significant portion of the baseline assessment for identified High  
9           Consequence Areas must be complete. As covered in the Companies' responses  
10          NYRC-0847 and NYRC-0505, the Companies have spread these baseline  
11          assessment costs over the 2010 through 2012 period. These baseline assessment  
12          costs represent the majority of the cost increase from the test year.

13   Q.    Is there a second cost that is being incurred that represents a significant difference  
14          from the test year?

15   A.    Yes. The cost of the implementation of a new data management program, which  
16          has been recommended by Staff as well as the US Department of Transportation  
17          Pipeline and Hazardous Materials Safety Administration ("PHMSA"), is included  
18          in the rate year costs.

19   Q.    What conclusion should the Commission reach with respect to Staff's proposed  
20          adjustments to the rate year expenses for the Integrity Management Programs?

21   A.    The Commission should reject Staff's proposed adjustments and recognize that  
22          the Companies have appropriately estimated the incremental costs necessary to be  
23          prepared for the required integrity management plan and to respond to the

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1 Commission's and PHMSA's recommendations for a new data management  
2 program.

3 Q. Can the Panel please review the items included in the Companies' initial filing  
4 related to integrity management?

5 A. The Companies' proposed incremental work that is required as part of the two  
6 distinct integrity management programs, which are mandated by the PHMSA and  
7 New York State 16NCYRR Part 255. The Transmission Integrity Management  
8 Program ("IMP") required that the companies complete the baseline assessment  
9 for identified High Consequence Areas by 2012. The Companies have included  
10 the requirements to complete the required work in the Capital, Reliability and  
11 Operations testimony and associated exhibits. In addition, the initial exhibits  
12 were updated in the Companies' response to NYCR-0847 (DPS-551). In  
13 addition, the Companies are required to develop a plan as required by PHMSA for  
14 a Distribution Integrity Management Plan ("DIMP") and implement the plan in  
15 August 2011.

16 Q. Are the levels of spending proposed by Staff adequate to complete the required  
17 work?

18 A. The proposed spending levels for rate year are not adequate to complete the  
19 identified work as required in the IMP plan. Included in the Exhibits are  
20 estimated expenses to complete the baseline assessment for each company and the  
21 cost associated with the implementation of a new data management program.

22 Note that PSC Safety Staff and PHMSA Field Staff have recommended that the  
23 Companies improve management of the data collected as part of the IMP

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1 programs. In addition, the Companies have included incremental expenses related  
2 to the development of and DIMP plan as required for implementation in August  
3 2011.

4 Q. Do the Companies agree with Staff's proposed accounting treatment?

5 A. Yes, the Companies agree that deferral accounting treatment is not necessary if a  
6 reasonable forecast is provided.

7 **Stray Voltage**

8 Q. Do the Companies accept Staff's proposed adjustments to stray voltage expenses  
9 as described in its testimony on pages 140-142?

10 A. Yes. Staff based its rate year estimates on the actual stray voltage expenses  
11 incurred in 2009 and applied an inflation factor to arrive at a rate year amount.

12 Q. Do the Companies agree with Staff that there should be no reconciliation of these  
13 costs in the rate year?

14 A. No. Staff has based their position on the premise that an appropriate amount is  
15 provided for in the rate year. While the Companies agree that Staff has used a  
16 reasonable method to estimate what rate year expenditures may be, the  
17 Companies believe that actual costs have a possibility of varying significantly  
18 from the estimated levels due to factors outside of their control. First, actual costs  
19 that will be incurred are heavily driven by prevailing market conditions for a  
20 limited group of experienced contractors who perform much of this type of work  
21 in New York State, and the work for 2010 and 2011 has not yet been bid out by  
22 the Companies. Additionally, the Companies, along with all other New York  
23 State electric utilities, will be filing reports of the 2009 results of the Stray

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1 Voltage program, and depending on the Commission’s review of those 2009  
2 results, there may be additional requirements placed on all New York companies  
3 that would be effective during the rate year, similar to the new requirements  
4 placed on the Companies in December 2008. It would be inappropriate to have  
5 the Companies incur newly required costs without recovery.

6 **NYSEG Gas Research & Development (“R&D”)**

7 Q. Do you agree with Staff’s proposed adjustment to remove \$1.9 million of R&D  
8 costs included in the “CRO Panel Initiatives” line item?

9 A. Yes. The adjustment proposed by Staff reduced the “Other” Operation &  
10 Maintenance Expense line by \$1.9 million. The Company’s rebuttal reclassifies a  
11 \$1.9 million reduction from the line item “Other” to “CRO Panel Initiatives.”

12 Q. What was Staff’s adjustment to the Compressed Air Energy Storage (“CAES”)  
13 project?

14 A. Staff’s testimony states that NYSEG incurred \$336,000 on the CAES R&D  
15 project in the test year. Staff proposes that the Company reduce R&D costs by  
16 \$347,000 from “Other” Expense on the basis that these costs will not reoccur in  
17 the rate year.

18 Q. Does the Panel agree with this adjustment?

19 A. No.

20 Q. Please explain.

21 A. It is correct to say that the expense associated with the CAES project that  
22 occurred during the test year will not reoccur. That does not mean, however, that  
23 other R&D project costs would not exist and require the use of funds identified as

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1 requested for the rate year. By their very nature, R&D projects change over time  
2 and it is inappropriate to adjust R&D spending thresholds on the basis that  
3 specific project costs will not reoccur.

4 Q. What adjustment to Staff's proposal do you support?

5 A. Staff's adjustment should be reversed by increasing the NYSEG Electric O&M  
6 expense line item "Other" by \$347,000.

7 **Other Operations & Maintenance Expenses**

8 Q. How did Staff adjust Other Operations & Maintenance Expense?

9 A. Staff's proposed adjustment, as discussed starting at page 143 of its testimony, is  
10 to exclude non-executive incentive compensation.

11 Q. Has Staff accurately captured these expenses?

12 A. Yes.

13 Q. Do you agree with Staff's proposed adjustment?

14 A. No. As previously mentioned in response to Staff's adjustment to Group  
15 Incentives, we do not agree with the disallowance of compensation for non-  
16 executive employees. These costs, including those associated with this  
17 adjustment, are components of the total compensation package for these  
18 employees. Without the ability to fairly compensate employees, including  
19 variable incentive compensation, the Companies will be unable to attract and  
20 retain talented staff. Staff's proposed adjustment should be rejected.

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1           **Productivity Adjustment**

2           Q.     Does the Panel agree with Staff's proposed productivity adjustments?

3           A.     No. The Companies' Policy Panel includes testimony regarding the productivity  
4                   and austerity adjustments proposed by Staff and rebutted by the Companies. The  
5                   amounts noted in the Companies' Policy Panel rebuttal testimony have been  
6                   included as rebuttal adjustments in the Companies' rebuttal Revenue  
7                   Requirements.

8           **Book Depreciation**

9           Q.     During your audit of the Staff revenue requirement exhibits, did you find any  
10                   errors in the amount of Book Depreciation for the Rate Year that was included in  
11                   Exhibits \_\_ (SRRP-3) (NYSEG) and Exhibit \_\_ (SRRP-5) (RG&E)?

12          A.     Yes. There were two errors.

13          Q.     Please explain the first error.

14          Q.     The Book Depreciation for the Rate Year was calculated in the Staff Gas  
15                   Infrastructure Panel models. Those models were provided to the Companies in its  
16                   workpapers "Workpapers- Exh \_\_ (GIP1-8) NYSEG" and "Workpapers- Exh \_\_\_\_  
17                   (GIP1-8)NYSEG". Those models presumably jumped off from actual plant and  
18                   depreciation reserve balances as of the end of 2009 and projected forward using  
19                   the capital expenditures that Staff forecasts. The first error deals with the amount  
20                   of book depreciation that those models are calculating based on actual plant  
21                   balances as of 1/1/10 (in other words, not reflecting plant additions and  
22                   retirements going into the future). We tested that amount by adding up the  
23                   monthly depreciation calculated in those models for January, 2010 and comparing

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1 it to the actual depreciation for that month. Both amounts are calculated on the  
2 plant in service at December 31, 2009. We found that Book Depreciation for  
3 NYSEG Gas was understated by \$2.691 million and the Book Depreciation for  
4 RG&E Gas was understated by \$1.350 million. Corrections to these errors have  
5 been included in the Companies' rebuttal filings.

6 A. Please explain the second error.

7 Q. The second error relates to the depreciation rate reductions that the Staff  
8 Depreciation Panel ("SDP") is recommending. While the Companies are  
9 contesting these depreciation rates, the amounts reflected in the revenue  
10 requirements are not consistent with the amount that the SDP is recommending.  
11 As a result, the Staff revenue requirement is not corrected. Furthermore, even if  
12 the amount per the SDP is removed from the Staff revenue requirement, the error  
13 will persist in the succeeding revenue requirements.

14 Q. What is the annual effect of the depreciation rate changes proposed by the SDP?

15 A. The annual impact is \$406 thousand decrease compared to current rates for  
16 NYSEG Gas and a \$1.575 million increase for RG&E Gas. These amounts were  
17 calculated by subtracting the increase amounts proposed by the Companies from  
18 the net adjustment amounts set forth in the Staff Exhibit \_\_ (DP-3), (pg. 1 –  
19 RG&E and pg. 2 – NYSEG).

20 Q. How did you calculate the amount in the Staff Plant models and revenue  
21 requirement exhibit?

22 A. We ran the plant models with the existing rates and with the new rates and found  
23 that the NYSEG Gas model produced a \$650 thousand decrease and the RG&E

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1 Gas model produced a \$875 thousand increase. As a result, the NYSEG Gas  
2 depreciation is understated by \$244 thousand and the RG&E Gas depreciation has  
3 been understated by \$700 thousand. These corrections have been reflected in the  
4 Companies rebuttal revenue requirement exhibits.

5 **RG&E DECOMMISSIONING RESERVES**

6 Q. Does the Company agree with Staff's recommendations regarding the  
7 discontinuation of the accrual of decommissioning costs for the two fossil plants  
8 which have been retired by RG&E?

9 A. Yes, in virtually all respects, although we must clarify a few areas.

10 Q. What is the first area that needs clarification to provide a complete record on this  
11 issue?

12 A. Staff indicates, on pages 158-59, that the estimated balance of \$9.733 million in  
13 the Russell decommissioning reserve could be used as an additional rate  
14 moderator should the Russell Station site be auctioned prior to the close of this  
15 rate case. We do not disagree with the concept, but would like to clarify that only  
16 the amount remaining in the Russell decommissioning reserve would be available.

17 It is possible that an agreement to sell the Russell site might involve RG&E  
18 spending some or this entire reserved amount on some decommissioning or other  
19 related work activity necessary to finalize the sale. The Company anticipates that  
20 details of the ratemaking associated with any residual decommissioning amount  
21 would be covered as part of a Section 70 proceeding that would be required if the  
22 Russell site were to be auctioned. It is also expected that in the next few months,  
23 the Company may need to spend some amount against the decommissioning

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1 reserve, which would also modify the estimated balance. While the Company is  
2 not planning any wholesale decommissioning effort at this time, there may be acts  
3 of nature, requirements of public safety, or other events that require RG&E to  
4 expend a portion of the funds at the Russell site.

5 Q. What is the second area that you wish to clarify?

6 A. The Company would like to voice its specific support for Staff's position, as  
7 noted on pages 160-161, that should either the Beebee or Russell site require  
8 additional funding for decommissioning, the opportunity to resume funding would  
9 be afforded the Company.

10 **OPERATING TAXES**

11 **RG&E Property Taxes**

12 Q. Do you agree with Staff's summary of the approach used by the Company to  
13 forecast property taxes for the rate year?

14 A. Overall, the summary is accurate. However there are two errors. The first is on  
15 line 9 of page 162. Staff incorrectly states that the Company added \$11.6 million  
16 of property taxes for the Rochester Transmission Project ("RTP"). The \$11.6  
17 million related only to the increase required to capture the impacts of the  
18 application of the escalation factor. The amount included in the original filing for  
19 RTP was \$3.8 million. The second is on line 4 of page 164. Staff lists two  
20 consultants, Thomson Reuters and Property Tax Services, related to the  
21 Company's successful negotiation of a 10% economic obsolescence reduction for  
22 special franchise property. In fact, the Company used only one consultant, the  
23 Property Tax Services division of Thompson Reuters.

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1 Q. Do you agree with Staff's adjustments to the property tax estimate for the rate  
2 year?

3 A. We agree with certain aspects and disagree with others.

4 Q. Which aspects do you agree with?

5 A. We agree with the Staff proposal to update property taxes to ensure the rate year  
6 forecast is based on the most recent available information. We have attached as  
7 Exhibit \_\_ (RGE RRP-11) Rebuttal the property tax calendar for RG&E's service  
8 territory. As is evident from this calendar, the only update that can be made with  
9 this rebuttal testimony relates to the town and county bills which are processed in  
10 January. Any further update will need to be addressed when the relevant tax  
11 information becomes available. An update based on both Staff's and the  
12 Company's estimation proposals for RG&E and NYSEG is attached as Exhibit \_\_  
13 (NYSEG/RG&E RRP-24) Rebuttal. The update using Staff's proposal is  
14 provided to ensure that all parties have interpreted Staff's proposal properly.

15 Q. Have you quantified the adjustment to Staff's proposed rate year property tax  
16 levels?

17 A. Yes. As Exhibit \_\_ (NYSEG/RG&E RRP-24) Rebuttal illustrates, an increase in  
18 property tax expense of \$9.208 million is required for RG&E Electric and an  
19 increase of \$2.133 million is required for RG&E Gas. Under Staff's proposal, an  
20 increase of \$3.419 million is required for RG&E Electric and an increase of  
21 \$1.433 million is required for RG&E Gas in order to reflect the 17% increase in  
22 town and county bills experienced in 2010 as compared to 2009.

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1 Q. Which aspects do you disagree with?

2 A. We disagree with the use of the GDP Implicit Price Deflator (“GDP-IPD”). It is  
3 clear by simply looking at the difference in the escalation rates for NYSEG and  
4 RG&E over the past several years that this “one size fits all” approach is not an  
5 accurate way to estimate the growth in property taxes. If the GDP-IPD were an  
6 accurate indicator, the escalation for these two Companies would have been  
7 similar. In fact this exact issue was considered by Trudi Renwick, Senior  
8 Economist, Fiscal Policy Institute, in a report entitled “Property Taxes in New  
9 York” dated May 14, 2008. The report, which is attached as Exhibit \_\_ (RG&E  
10 RRP-16) Rebuttal, contains a high-level summary of the drivers of property tax  
11 increases, which for the most part have no correlation to the GDP-IPD. For  
12 example, property tax levies are impacted by the level of state aid provided to the  
13 localities as well as the performance of the stock market on the level of pension  
14 funding which school districts, cities, etc., need to make. Specifically, on page 12  
15 of the report, in considering what “index” should be used to establish a cap for  
16 property tax levies, the Consumer Price Index (“CPI”), which while not identical  
17 to the GDP-IPD, but similar, is dismissed because “CPI not designed to measure  
18 the cost of producing public goods (such as education or health care) but rather  
19 the cost of a market basket of consumer goods.” Page 13 of the report provides  
20 additional evidence that a “one size fits all” approach is not appropriate. The  
21 disparate results that RG&E and NYSEG have seen over the past few years is  
22 itself evidence of the conclusions of this report. We have attached as Exhibit \_\_  
23 (RG&E RRP-13) Rebuttal a summary of the actual delivery-related property tax

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1 escalation rates for RG&E since 2000 as compared to the GDP for this same  
2 period. As this summary indicates, the actual property taxes have increased from  
3 a range of one times the GDP in 2000 & 2004 to 14 times the GDP in 2008 &  
4 2009. In addition to the information provided in Exhibits \_\_ (RG&E RRP-16 and  
5 RG&E RRP-13) Rebuttal, a presentation made by the Executive Director of the  
6 NYS Office of Real Property Services (“ORPS”) in May 2008, attached as  
7 Exhibit \_\_ (RG&E RRP-17) Rebuttal, indicates on page 4 that school tax levies  
8 have increased an average of 7% annually from 2001-2007. This presentation  
9 also lists on page 5 some of the root causes of this increase, such as school district  
10 expenditures, unfunded mandates and the level of state financial support. Page 8  
11 of this report also provides additional reasons why property taxes can vary  
12 significantly by geographic location.

13 Q. Are there any other reasons that you disagree with the use of the GDP-IPD?

14 A. Yes. Staff implies that the increases seen in the past and required for full  
15 recovery of the property taxes related to RTP will be offset by additional  
16 reductions the Company expects to get related to the application of the 10%  
17 economic obsolescence reduction to non-special franchise property. While it is  
18 true that the Companies will continue to pursue reductions in property tax  
19 assessments, it is uncertain as to whether the Companies’ efforts, no matter how  
20 aggressive, will result in any decreases for the rate period. This is true for several  
21 reasons. First, as the calendar provided as Exhibit \_\_ (RG&E RRP-11) Rebuttal  
22 demonstrates, the first relief that can be expected would relate to the school tax  
23 bills covering the period from July 1, 2010 to June, 30, 2011. Any relief for town

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1 and county would not be realized until January 1, 2011 at the earliest. Second,  
2 non-special franchise property is assessed at the local assessor level. Therefore,  
3 this effort will involve contacting each local assessor to request a reduction.  
4 There are estimated to be 86 local assessors. These local assessors are in no way  
5 bound to apply the reduction approved by ORPS for special franchise property to  
6 non-special franchise property, and therefore the Company anticipates lengthy  
7 negotiations regarding these requests. In addition, most local assessors do not  
8 have an expertise in the valuation of utility property and often rely on data  
9 provided by the Company or, in the alternative, request an advisory appraisal  
10 from ORPS to establish the assessed value. It is likely that our request for an  
11 economic obsolescence reduction will result in the local assessors seeking an  
12 advisory appraisal from ORPS. This has the potential of increasing the assessed  
13 value by an amount equal to or greater than the requested 10% reduction due to  
14 the fact that ORPS inputs several different assumptions in its application of the  
15 Reproduction Cost New Less Depreciation (“RCNLD”) calculation as compared  
16 to the inputs used by the Company. For example, ORPS assigns a much longer  
17 life, which depreciates the assets at a slower rate. In addition, ORPS depreciates  
18 assets to a 20% floor, but then reduces its depreciation rate so that a 5% floor is  
19 not reached until the assets achieve 120% of their service life, whereas the  
20 Company uses a 5% floor based on the actual life of the assets. Both of these  
21 differences will result in a higher assessed value, before the application of the  
22 10% economic obsolescence reduction, than what was on the roll previously.  
23 This re-determination of RCNLD will serve to offset a substantial portion of the

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1 expected benefit related to the economic obsolescence reductions for non-special  
2 franchise property. The Company intends to review all these issues, by  
3 jurisdiction, before making its reduction requests, in order to ensure it makes the  
4 requests only for the jurisdictions where a benefit will be experienced. By matter  
5 of reference, the total reduction to be realized if all jurisdictions accepted our  
6 request immediately and did not request advisory appraisals would be \$2.8  
7 million, with approximately 75%, or \$2.1 million impacting the rate year.

8 Support for this amount is attached as Exhibit \_\_ (RG&E RRP-18) Rebuttal.  
9 Based on the process laid out above, the Company believes it to be very unlikely  
10 that much, if any, relief for non-special franchise property will occur in the rate  
11 year. This compares to a more certain increase in property taxes related to RTP  
12 projected to be \$3.6 million, which is not currently reflected in Staff's estimate.

13 Q. Are there any other reasons why the use of the GDP-IDP is not proper?

14 A. Yes. The RCNLD calculation above already has built into it an original cost  
15 inflator, as the Reproduction Cost New ("RCN") portion of the calculation takes  
16 the original cost of the assets and inflates them to an RCN by applying the Handy  
17 Whitman index inflator. This index measures the growth in costs related to the  
18 type of materials used in the construction of electric and gas assets. The use of  
19 the GDP-IPP does not in any manner capture the impact on the assessed value of  
20 replacing older property with new property. When this occurs, the "less  
21 depreciation" portion of the RCNLD related to the older assets is removed from  
22 the calculation as the new replacement assets are assigned a new life starting in  
23 the year the asset was placed in service.

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1 Q. Does this complete your summary of reasons why the GDP-IDP is not a proper  
2 proxy for estimating the rate year property tax expense?

3 A. No. The combined impact on assessed value and the external pressures such as  
4 local budgets, state aid, and others were addressed above. The other issue that the  
5 GDP-IDP would not capture would be the impact of any increases or decreases in  
6 the assessed value of the utility property relative to the increases or decreases in  
7 the rest of the tax roll. For example, assume that the assessed value is decreasing  
8 for all non-utility property and the assessed value of the utility property remains  
9 the same. Also assume that the budget is held flat for a certain taxing jurisdiction.  
10 This will result in an increased property tax rate and the utility will experience an  
11 increase in tax even though the budget did not increase because it is now a larger  
12 part of the tax roll.

13 Q. Why is the use of an historic growth rate proper?

14 A. The use of an historic growth rate captures the impact of all of the factors  
15 described above, and mentioned in the referenced documents, resulting in a  
16 reliable estimate based on a continued trend of the several economic and social  
17 factors contributing to the increases or decreases that have occurred in the past.

18 Q. Do you have any comments related to the adjustment made by Staff to remove the  
19 costs to achieve from the property tax estimate?

20 A. On lines 10-14 of page 167, Staff indicates that it disallowed the amount based on  
21 the fact that the amount was an estimate and that the estimate should be replaced  
22 with an actual amount. The update provided as Exhibit \_\_ (NYSEG/RG&E RRP-  
23 24) Rebuttal uses the same estimate previously provided by the Company. This

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1 estimate represents 25% of the projected first year benefit, using a 4% across the  
2 board tax rate. This is the agreed-upon fee with Thomson Rueters. Since the  
3 benefit is an estimate, it makes sense to allow for the cost to be an estimate as  
4 well. The actual fee will not be finalized until all final special franchise notices  
5 and advisory appraisals have been received.

6 Q. Do you agree with Staff's assertion that there should not be a reconciliation  
7 between forecasted and actual property taxes for the rate year?

8 A. No. As Staff points out, property taxes are a large part of RG&E's expenses.  
9 While the provision for an update based on the latest known data will help  
10 mitigate any under- or over-collection, the fact that Staff believes that a 2.9%  
11 inflator is accurate and the Company believes that the inflator based on the last  
12 known data should be 10.57% and 9.63% annually for RG&E Electric and Gas,  
13 respectively, provides support for a deferral mechanism in this instance.

14 Q. Does this conclude your comments related to RG&E property taxes?

15 A. Yes. However, as further evidence of the upward pressure on property taxes, we  
16 have attached as Exhibit \_\_ (RGE RRP -25) Rebuttal a summary of the most  
17 recent Greece Central School District budget and tax levy estimate. This shows  
18 that while the budget only increased by 2%, the tax levy increased by 12.6% due  
19 primarily to a decrease in state aid.

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**NYSEG Property Taxes**

1  
2 Q. Do you have any comments related to Staff's rate year estimate for property taxes  
3 for NYSEG?

4 A. Yes. The Company believes that the historic growth rate should be used for  
5 NYSEG as well and that the rate should be applied using the best known data as  
6 supplied on Exhibit \_\_ (NYSEG/RG&E RRP-24) Rebuttal. As we testified  
7 previously, a "one size fits all" approach such as the use of the GDP-IPD does not  
8 properly capture all of the factors that impact a company's property tax expense,  
9 and for NYSEG the impact of all these factors has actually resulted in a slower  
10 growth rate than the GDP-IPD, and the estimate should reflect this trend.

11 Q. Have you quantified the adjustment to Staff's proposed rate year property tax  
12 levels?

13 A. Yes. As Exhibit \_\_ (NYSEG/RG&E RRP-24) Rebuttal illustrates, an increase in  
14 property tax expense of \$405,000 is required for NYSEG Electric and a decrease  
15 of \$175,000 is required for NYSEG Gas. Under Staff's proposal, an increase of  
16 \$1.989 million is required for NYSEG Electric and an increase of \$990,000 is  
17 required for NYSEG Gas in order to reflect the 7% increase in town and county  
18 bills experienced in 2010 as compared to 2009.

**Payroll Taxes**

19  
20 Q. Have the Companies included rebuttal adjustments to Payroll Taxes in each of the  
21 four businesses?

22 A. Yes. The Companies include Payroll Tax adjustments that track the various  
23 payroll adjustments that have been included in other areas.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1            Use Tax

2        Q.     Do you agree with the adjustment made by Staff to the RG&E use tax expense for  
3            the rate year?

4        A.     No. For RG&E, Staff has taken a refund of \$826,000 that related to the years  
5            2000-2002 and assumed that refunds of a similar amount will result as the audits  
6            for the most recent years are completed. The fact is that we have had two  
7            subsequent audits completed for RG&E, and in both instances, the audits resulted  
8            in a deficiency, not a refund. Staff was provided the results of the audit for  
9            RG&E covering the period from December 1, 2002 through November 30, 2005  
10          as part of the response to DPS-271. The audit resulted in a payment of tax and  
11          interest of \$667,000. Of this amount \$216,000 related to use tax expense. The  
12          rest related to capital projects and interest. It is not apparent to the Company why  
13          Staff did not try to address this additional payment in their adjustment. As part of  
14          this same response, Staff was informed that NYSEG recently paid a deficiency for  
15          use tax in the amount of \$4.3 million in December 2008. Of this amount,  
16          \$182,000 related to use tax expense. The rest related to capital projects and  
17          interest. Staff did not make any adjustment for this amount, which was included  
18          in the 2008 actual use tax expense used to determine the average use tax expense  
19          for the 4-year period proposed by Staff.

20        Q.     Based on the most recent audits, does the Company propose any adjustments to its  
21            filing position?

22        A.     Yes. The most recent audit of RG&E, which covered the period from December  
23            1, 2005 through November 30, 2008, was completed in December 2009. The

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1           audit resulted in a deficiency of \$79,000 and the settlement report is included as  
2           part of Exhibit \_\_ (NYSEG RRP-25) Rebuttal attached. Of this amount, \$27,000  
3           related to use tax expense, with the rest being related to capital and interest. This  
4           demonstrates that the effective tax rates used for the use tax accrual for this  
5           period, which are derived as part of the managed audit process, are now in line  
6           with the ultimate results of the audit, which is the intention of the managed audit  
7           process. Therefore, the Company proposes that the actual use tax that resulted for  
8           the three years that were just audited be used as the base estimate, before the  
9           application of the 3.41% inflator for the rate year for RG&E. The Company's  
10          revised estimate is provided as Exhibit \_\_ NYSEG RRP-25) Rebuttal. This will  
11          eliminate any need for normalization. For NYSEG, the Company proposes to use  
12          the same approach, but eliminate the one time increase of \$182,000 in 2008  
13          related to the audit. If Staff believes the normalization for the \$826,000 is still  
14          justified, then the \$216,000 audit deficiency for RG&E and the \$182,000 audit  
15          deficiency for NYSEG need to also be included in the calculation of the 4-year  
16          average. Furthermore, if Staff still believes that there is an unacceptable risk of  
17          over- or under-collection for open periods and the rate year, a deferral mechanism  
18          for future audit impacts can be added to protect both shareholders and customers.

19    Q.    Have you quantified the impact on other taxes of the Company proposal on the  
20          Staff projection?

21    A.    Yes. As is illustrated on Exhibit \_\_ (NYSEG RRP-25) Rebuttal, the Company  
22          proposes a decrease of \$4,000 for NYSEG Electric and an increase of \$107,000

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 for NYSEG Gas. The Company proposes an increase of \$106,000 for RG&E  
2 Electric and an increase of \$75,000 for RG&E Gas.

3 **FEDERAL INCOME TAXES**

4 **R&D Tax Credits**

5 Q. Do you have any concerns with Staff's adjustment to reflect an estimate for R&D  
6 credits?

7 A. Yes. The R&D Credit expired as of December 31, 2009. This information was  
8 provided to Staff in response to DPS-550. The Company does not object to the  
9 deferral of this item in the event that new legislation reinstates the credit.

10 Q. Have you quantified the impact of this adjustment on Staff's income tax expense?

11 A. Yes. Income tax expense should be increased by \$183,000 for NYSEG Electric,  
12 \$134,000 for NYSEG Gas, \$98,000 for RG&E Electric and \$101,000 for RG&E  
13 Gas.

14 **Cost of Removal ("COR") Tax Deduction**

15 Q. Do you have any concerns with the method change for the benefits related to  
16 COR proposed by Staff for RG&E?

17 A. No.

18 **Preferred Dividend Effect on NYSEG Income Tax**

19 Q. Do you have any concerns with the adjustment made by Staff related to the  
20 deduction for Preferred Dividends?

21 A. Yes. While the Company erred in the handling of this item by inadvertently  
22 adding the amount to taxable income instead of deducting it, Staff has erred in its  
23 assumption that 100% of the dividends are tax deductible. Preferred dividends

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1 are normally not tax deductible. However, the Internal Revenue Code allows for  
2 a deduction for certain issuances of preferred dividends incurred by utilities. The  
3 Company has provided an update to reflect the proper treatment as Exhibit \_\_  
4 (NYSEG RRP-26) Rebuttal. Also attached as part of this exhibit is page 1 of the  
5 2008 pro-forma federal income tax return for NYSEG which supports the  
6 deduction taken.

7 Q. Have you quantified the impact of this adjustment to Staff's level of income tax  
8 expense?

9 A. Yes. NYSEG Electric's income tax expense should be increased by \$61,000 and  
10 NYSEG Gas's income tax expense should be increased by \$20,000.

11 **Interest Deduction**

12 Q. Do you have any concerns with the Interest Deduction adjustment made by Staff?

13 A. Yes. Staff assumes that a deduction for interest supporting Interest Bearing  
14 CWIP is deductible for income tax purposes. Section 263(a) of the Internal  
15 Revenue Code requires capitalization of construction period interest. Therefore,  
16 the Company does not take an immediate tax deduction for this interest. Instead,  
17 it is capitalized and depreciated over the tax life of the assets. Attached as Exhibit  
18 \_\_ (NYSEG/RG&E RRP-27) Rebuttal is schedule M-1 of the 2008 pro-forma  
19 federal income tax return for NYSEG, which includes an addition to taxable  
20 income for capitalized interest. A deferred tax asset is established related to this  
21 addition to book income in the year that the interest is capitalized and the deferred  
22 tax asset is amortized as the tax depreciation is taken. This treatment eliminates

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1 the need for collection of the tax expense caused by the capitalization of interest  
2 expense for tax purposes.

3 Q. Have you quantified the impact of this adjustment on income taxes?

4 A. Yes. NYSEG Electric's income tax expense should be increased by \$358,000 and  
5 NYSEG Gas's income tax expense should be increased by \$24,000. RG&E  
6 Electric's income tax expense should be increased by \$597,000 and RG&E Gas's  
7 income tax expense should be increased by \$28,000. The calculation for this  
8 adjustment is included as part of Exhibit \_\_ (NYSEG/RG&E RRP-27) Rebuttal.

9 Q. Do you have any other comments related to the income tax adjustments made by  
10 Staff?

11 A. Yes. The income tax calculation includes a flow through tax impact related to  
12 pre-paid property taxes. While Staff has made adjustments to the level of  
13 property taxes, it has not updated the income tax benefit related to pre-paid  
14 property taxes to reflect the decrease in projected property taxes.

15 Q. Have you quantified this impact?

16 A. No, as both the Company's and Staff's property tax estimates need to be updated  
17 to reflect the best known data, both parties need to be aware that this flow-through  
18 impact on income taxes also needs to be addressed with any update.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

**RATE BASE**

**Earnings Base versus Capitalization (EB-CAP)**

1  
2  
3 Q. Please briefly summarize the purpose of the Earnings Base-Capitalization

4 Adjustment and the difference between how it has been reflected in this case by  
5 the Company and the Staff.

6 A. While not agreeing with every part of the Staff testimony, the Company can agree  
7 that the intent of the EB-Cap Adjustment is to align Rate Base with the amount of  
8 investor-committed capital supporting the Rate Base. To the extent that the Rate  
9 Base is supported by investor-committed capital, the utility must earn a return on  
10 that Rate Base so that it can pay the interest on the debt and provide a fair return  
11 on the equity that is supporting the Rate Base. On the other hand, if part of the  
12 Rate Base is supported by cost-free capital, no return is justified on that part of the  
13 Rate Base.

14 Q. What is an example of cost-free capital?

15 A. The Staff Panel provides one example - Accounts Payable and another example is  
16 non-interest bearing contributions in aid of construction.

17 Q. Staff also notes that utilities provide cost free capital or uses of funds to  
18 ratepayers, citing to Customer Accounts Receivable as an example. Do you agree  
19 with that statement?

20 A. No. To the extent that any business renders service to its customers and pays its  
21 employees, taxes, banks, vendors or other bills before receiving payment for those  
22 services, the business must borrow cash to pay those bills. Those funds that are

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1 borrowed to support the difference between Accounts Receivable and Accounts  
2 Payable are not free and must be included in the business's cost of service.

3 Q. Are there other current assets and current liabilities other than Accounts  
4 receivable and Accounts Payable?

5 A. Yes. There are many. The Companies listed them on Schedule E of the RRP-4  
6 Exhibits.

7 Q. Does the FERC Formula produce an amount of Working Capital that includes all  
8 Working Capital?

9 A. No. Wikipedia defines Working Capital, also known as net working capital, as  
10 calculated as current assets minus current liabilities. The FERC Formula is a  
11 simple percentage of O&M that varies depending on if a company bills monthly  
12 or bimonthly. As Staff indicated, it was adopted by the FERC in the early 70's,  
13 and the states followed suit, as a means to avoid the cumbersome process of  
14 calculating lead-lag studies. But the FERC Formula and lead-lag studies do and  
15 did not include all current assets and liabilities.

16 Q. Staff also claims on page 81 of its testimony that "the utilities used a different  
17 method for calculating its EBCAP adjustment which produces an incorrect  
18 result." Do you agree with that statement?

19 A. No. Staff's adjustments make it abundantly clear that that the two methods do not  
20 produce different results. As an example, referring to Schedule I of Exhibit \_\_  
21 (SRRP-2), which is the Staff version of the NYSEG Electric Revenue  
22 Requirement, note that Staff makes a direct transfer of \$19.9 million from the  
23 "Other Working Capital" line (item 35 on Schedule I) to the "EB-Cap" line (item

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1           36), resulting in absolutely no net difference in Rate Base. Staff then moves  
2           \$16.8 million from the “EB-Cap” line to “Deferred Debits & Credits” (buried in  
3           the \$99.6 million on line 37), again with absolutely no net effect on Rate Base.

4   Q.    Why did Staff go to such effort when the results are the same?

5   A.    We do not understand why they took such action.

6   Q.    Why didn’t the Companies follow what Staff described as the standard method for  
7           calculating the EB-Cap and Rate Base?

8   A.    It is our understanding that the Commission expects that Rate Base and Revenue  
9           Requirements will be supportable and, as much as possible, easily auditable.  
10           Therefore, rather than having a large EB-Cap Adjustment, the Companies went to  
11           the effort to specifically identify the net assets and liabilities that otherwise would  
12           have ended up in the EB-Cap Adjustment and made a discrete line item in Rate  
13           Base for them.

14   Q.    Do the Companies have a problem with leaving the Staff adjustments to Other  
15           Working Capital and EB-Cap as they are for this case?

16   A.    The Companies continue to believe that the clearest picture of what is in Rate  
17           Base is seen with the Other Working Capital line as it was in the Companies'  
18           filings and with no need for a large EB-Cap Adjustment. However, as  
19           demonstrated earlier in this rebuttal testimony, there is no net effect of the Staff  
20           move between categories. Therefore, as long as the EB-Cap Adjustment stays in  
21           Rate Base as it is in the Staff exhibits, the Company has no objection with leaving  
22           it there for this case. However, if the Commission prefers not to have the large

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 EB-Cap Adjustment, then the Staff adjustments should be reversed and Other  
2 Working Capital be restored.

3 **NYSEG EBCAP Adjustments**

4 Q. Is the Company making any corrections or modifications to Staff's adjustment?

5 A. Yes, one. The Company is correcting an error to remove the Commodity Hedge  
6 Margin Collateral account from delivery rate base. This account was correctly  
7 included in the MFC working capital calculation that was provided in the  
8 Company's 12/4/09 update filing, but was inadvertently also included in the  
9 delivery Other Working Capital calculation, thus creating a double-count. Of  
10 course, as discussed above, the Companies are accepting Staff's transfer of the  
11 Other Working capital component of rate base to an EB-Cap adjustment.

12 **RG&E EBCAP Adjustments**

13 Q. Does the Company agree with Staffs removal of certain miscellaneous deferred  
14 debit accounts from rate base on the grounds that is "unclear what is included in  
15 these accounts"?

16 A. No. Although the Company has not modified its exhibits to remove the Staff  
17 adjustment, we feel that these accounts rightly belong in rate base. In fact, Staff  
18 was provided backup the accounts in question in the Companies response to  
19 interrogatories NYRC-0621 (DPS-458) and NYRC-0622 (DPS-459). We will be  
20 reviewing these \$743 thousand electric and \$338 thousand gas adjustments further  
21 during these proceedings.



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1 correction to include the amortization of capitalized installation costs in expense.

2 We also accept Staff's transfer of certain balances from working capital to

3 deferred debits and credits, as well as the inclusion in rate base of a few additional

4 regulatory deferral balances that were treated as not in rate base and accruing a

5 non-cash return in the December 4 Update. These are on Schedule F of Exhibit

6 \_\_ (NYSEG Elec RRP-4) Rebuttal. In fact, Staff actually transferred a much

7 larger amount from working capital to EB-Cap and then transferred a small

8 portion of that amount from EB-Cap to deferred debits. The transfer from

9 working capital to EB-Cap is addressed later in our testimony. However, as

10 discussed elsewhere in our testimony or that of the Companies' Policy Panel, we

11 are rejecting, in their entirety, Staff's adjustments relating to PBA utilizations,

12 storm reserve write-downs, non-qualified pension, the \$25 million adjustment to

13 economic development associated with Iberdrola's wind investment commitment,

14 and Staff's proposed Annual Compliance Filing ("ACF") adjustments.

15 Q. With respect to the rate base deferrals that Staff proposes for NYSEG Electric, are  
16 there any corrections that need to be made at this time?

17 A. Yes, as described further on Schedule I-3 of Exhibit \_\_ (NYSEG Elec RRP-4)  
18 Rebuttal, we have made corrections to the Staff forecast for Accrued Pensions and  
19 for OPEBs.

20 **Asset Sale Gain Account ("ASGA")**

21 Q. Do you agree with Staff's proposal of updating to the December 31, 2009 ASGA  
22 balance?

23 A. Yes, we do.

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1 Q. Would this update eliminate the need to accrue carrying charges on the difference  
2 between the balance in rate base and the rate year actual average balances?

3 A. No, there will be differences beyond the amount used to reduce rate base. This  
4 treatment is consistent with the Company's current method.

5 **Other NYSEG Electric Deferrals**

6 Q. Have you previously addressed other NYSEG Deferrals?

7 A. Yes. We addressed all issues raised by Staff in this area in our prior discussion of  
8 NYSEG Electric Deferrals.

9 **NYSEG Gas Deferrals**

10 Q. In its testimony, did Staff propose amortizing the NYSEG Gas environmental site  
11 remediation deferral?

12 A. Yes.

13 Q. How much amortization expense did Staff reflect in its revenue requirements  
14 exhibit, Exhibit \_\_ (SRRP-3)?

15 A. The Staff exhibits reflected \$0 for amortization of the environmental deferral.

16 Q. How has the Company reflected this item in its rebuttal?

17 A. We have accepted the amounts shown in Staff's exhibits, and have not made any  
18 modifications to include an amortization of the NYSEG Gas environmental  
19 remediation amortization in our exhibits.

20 Q. If the Commission were to recommend amortization of this deferral, what would  
21 the Company propose?

22 A. Should the Commission choose to amortize this deferral, we would propose a  
23 three year amortization period, consistent with the Electric businesses.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. Does the Company agree with the remainder of Staff's deferrals and  
2 amortizations?

3 A. With respect to amortizations, the Company agrees with all except for those  
4 associated with the PBAs and Annual Compliance Filings of \$3.7 million and  
5 \$3.8 million, respectively. With respect to Deferral balances, as stated before, the  
6 Company rejects Staff adjustments related to PBA utilizations, non-qualified  
7 pension, the \$25 million adjustment to economic development associated with  
8 Iberdrola's wind investment commitment, and the proposed Annual Compliance  
9 Filing adjustments.

10 Q. Are you making any other corrections to NYSEG Gas deferral balances?

11 A. Yes, there are several which are all identified and described on Schedule I-3 of  
12 Exhibit \_\_ (NYSEG Gas RRP-4) Rebuttal.

13 Q. Does the Company accept Staff's proposal to amortize Gas deferrals over five  
14 years instead of three?

15 A. No, the Company rejects Staff's proposed five year life, in favor of a three year  
16 amortization period. This is consistent with the Electric deferrals.

17 **RG&E's Electric Deferrals**

18 Q. Does the Company accept the Staff Panel's adjustments to RG&E's Electric  
19 deferrals and amortizations?

20 A. We accept the following Staff adjustments: 1) to amortize deferrals over a three  
21 year period; 2) Staff's correction to the Pension Asset balance and; 3) the  
22 inclusion into rate base of several regulatory deferral balances that were treated in  
23 the December 4 Update as not in rate base and accruing a non-cash return.

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1           However, as addressed earlier, we reject, in their entirety, all deferral and  
2           amortization adjustments Staff made with respect to PBA utilizations, storm  
3           reserve write-downs, non-qualified pension, the \$25 million adjustment to  
4           economic development associated with Iberdrola's wind investment commitment,  
5           the hedge loss 25% disallowance, and the proposed Annual Compliance Filing  
6           adjustments.

7   Q.    Are there any other corrections to Staff's rate base deferral calculations that you  
8           are making at this time?

9   A.    Yes, there are several and they are all identified and described on Schedule I-3 to  
10          Exhibit \_\_ (RG&E Elec RRP-4) Rebuttal.

11   Q.    Do you agree with the Staff Panel's request to update the ASGA to the balance at  
12          December 31, 2009?

13   A.    Yes, we will provide the updated balances on or before initial brief. As discussed  
14          above with respect to carrying charges on the NYSEG ASGA, we would request  
15          that the same accounting treatment be applied here

16          **RG&E's Gas Deferrals**

17   Q.    Is this panel proposing any changes to RG&E's Gas Deferrals and Amortizations?

18   A.    Yes, several. First, as stated earlier, the Companies reject, in their entirety, any  
19          deferral or amortization adjustments Staff made with respect to PBA utilizations,  
20          non-qualified pension, the \$25 million adjustment to economic development  
21          associated with Iberdrola's wind investment commitment, the interest rate hedge  
22          loss 25% disallowance, and the proposed Annual Compliance Filing adjustments.  
23          Additionally, we reject Staff's proposed five year amortization of gas deferrals in

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1 favor of a three year amortization to be consistent with those in the Electric rate  
2 base. Lastly, we have several corrections to the Staff calculation of deferrals and  
3 amortizations, which are identified and described on Schedule I-3 of Exhibit \_\_  
4 (RG&E Gas RRP-4) Rebuttal.

5 Q. Does this panel accept Staff's inclusion in the rate year rate base and amortization  
6 of several regulatory assets and liabilities that RG&E did not include in its  
7 December 4 Update?

8 A. Yes, as shown on Schedule F of Exhibit \_\_ (RG&E Gas RRP-4) Rebuttal, we  
9 have accepted most of these, subject to certain corrections and use of a three year  
10 amortization period.

11 **Other Recommendations for NYSEG/RG&E Deferrals**

12 Q. Do you agree with Staff's recommendation that all NYSEG and RG&E deferrals  
13 be updated to their actual December 31, 2009 balances?

14 A. Yes.

15 Q. When will these updated balances be provided?

16 A. The Companies will provide them at or before Initial Briefs in these cases

17 **OTHER ISSUES**

18 **Rochester Street Lighting Sale**

19 Q. Has Staff made adjustments associated with the proposed sale of street lighting  
20 facilities to the City of Rochester?

21 A. Yes. Staff has included a reduction to O&M of \$548,000 and an increase to  
22 revenues of \$86,300.

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1 Q. Does the Company agree with these adjustments?

2 A. We agree, but only in part. As shown in the Company response NYRC-0467,  
3 which is referenced in Staff's testimony, there is an expectation of about \$86,000  
4 in pole attachment revenue that represents an appropriate update to the currently  
5 filed Company revenue amounts. As further provided in that same response, the  
6 Company provides very specific information about the O&M costs incurred over  
7 the past 44 months on the City of Rochester street lighting system, which average  
8 about \$21,228 per month, or about \$255,000 annually. We would agree that the  
9 \$255,000 annual amount should be reflected as a reduction to rate year O&M, and  
10 the Company is also willing to round that amount up to \$300,000 to accommodate  
11 some administrative time that may also be committed to the City of Rochester  
12 street lighting system. Staff, however, has chosen to ignore the comprehensive  
13 data provided by the Company and instead create an alternative approach to  
14 estimating O&M associated with the City of Rochester street lighting system.

15 Q. What is Staff's approach to estimating the O&M impact?

16 A. Staff uses the estimated City of Rochester street lighting plant in service amount  
17 as a percentage of the overall street lighting plant in service, and multiplies the  
18 resulting percentage by the annual street lighting expenses incurred by RG&E. In  
19 the absence of actual data, which was provided by the Company, Staff's approach  
20 would have some merit. Given that actual data is present, that data should be  
21 used.

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1 Q. Why is Staff's approach in this instance potentially flawed?

2 A. Evidence of a flaw is that Staff's approach does not result in a an amount that is  
3 reasonably close to the actual amounts consistently experienced by RG&E over  
4 the past 3+ years. The reasons for this divergence could include: (1) the City of  
5 Rochester street lighting system may, on average, be newer than the remainder of  
6 the street lighting systems owned by RG&E and therefore require less ongoing  
7 maintenance at this time; (2) the geographic dispersion of the rest of the street  
8 lighting owned by RG&E outside the City of Rochester ends up costing more per  
9 item of maintenance activity; (3) the types of facilities owned by RG&E in the  
10 City of Rochester are different makes and/or models than those outside the City  
11 and require different levels of maintenance; and (4) there may have been some  
12 one-time items included in the street lighting expenses that Staff based their  
13 calculation on which had nothing to do with the City of Rochester street lighting  
14 system. Any one or more of these reasons would lead to a simple pro-rata  
15 approach based on gross plant-in-service being non-representative of actual costs.

16 Q. Staff has estimated the current Company filing has a revenue requirement  
17 deficiency of about \$0.5 million that would be made up by remaining customers.  
18 Do you agree with Staff?

19 A. Yes. However, with the two modifications agreed to above by the Company  
20 (about \$0.1 million annually in pole attachment revenues and \$0.3 in reduced  
21 annual O&M), the estimated deficiency is closer to \$0.1 million.

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1 Q. Is there another factor that Staff has not incorporated into their calculations on  
2 this item?

3 A. Yes. As shown in the Company's October 21, 2009 Section 70 filing, Schedule  
4 D, which is attached to this testimony as Exhibit \_\_ (RG&E RRP – 26) Rebuttal  
5 for ease of reference, there is a net gain on the sale of the street lighting system of  
6 approximately \$1.34 million, which inures in its entirety to the ratepayers as a  
7 whole. This present gain more than makes up for many years of a small revenue  
8 requirement deficiency, and could, as part of the Section 70 proceeding, be  
9 included in some type of a rate moderator to assure the overall revenue impact on  
10 customers is a benefit.

11 **Fossil Generation Divestiture**

12 Q. Does RG&E agree with Staff's proposed modifications to revenue requirements  
13 and rate base associated with the possible sale of fossil facilities?

14 A. No. While we agree that an auction process has started and there is a possibility  
15 that some or all of the facilities may be sold prior to the end of the rate year  
16 covered by these proceedings, it is premature to make any O&M, property tax or  
17 rate base adjustments in the current proceeding.

18 Q. Why is it premature to make any of these adjustments?

19 A. The likelihood of a sale is unknown at this time. The Company is working  
20 collaboratively with Staff on the auction process, according to the general  
21 approach filed by the Company in November, 2007, and approved by the  
22 Commission in November, 2008. The ratemaking treatment associated with a  
23 sale is appropriately dealt with as part of the Section 70 filing seeking

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1 Commission approval of the sale. Rather than getting into an extensive exchange  
2 regarding the theoretically correct level of expenses, taxes or rate base that could  
3 be adjusted, it is more efficient to use the long-standing, Commission-accepted  
4 practice of establishing the ratemaking treatment as part of a Section 70  
5 proceeding.

6 Q. Do you agree with Staff's calculations associated with the possible sale?

7 A. The Company has not had an opportunity, given the limited time to prepare its  
8 rebuttal testimony, to do a thorough analysis of Staff's approach. We would point  
9 out that the Staff approach has to assume a sales closure date for all facilities.  
10 Even a small shift in that date or the date in which certain facilities are ultimately  
11 included could make a significant change in the amounts Staff has calculated.  
12 Once again, since there is a fully reasonable alternative to making any  
13 adjustments at this time, the Commission should reject Staff's proposed  
14 adjustments and proceed via the Section 70 process.

15 **Accounting for Computer Software**

16 Q. Have you reviewed Staff's testimony related to Accounting for Computer  
17 Software?

18 A. Yes.

19 Q. Can you summarize the Company's interpretation of the Staff testimony?

20 A. Yes. Staff appears to make two primary conclusions in its testimony. The first  
21 Staff position is that software investments made by the Companies can be  
22 capitalized. Staff, however, does not agree with all of the guidance in the  
23 capitalization policy that was included in the Companies' initial filing as Exhibit

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1           \_\_ (RRP-6), and Staff provides some specific ideas on how the policy should be  
2           modified. The second conclusion/recommendation that Staff makes is that,  
3           consistent with the ruling the Commission made in Case 05-E-1222 for the  
4           NYSEG Electric business's treatment of IBO and WMS software, the RG&E  
5           Electric and Gas businesses should reduce rate year amortization by \$1.395  
6           million and \$0.751 million respectively, with reductions in rate base of \$5.166  
7           million and \$2.782 million. Staff also concludes that the NYSEG Gas business  
8           should reduce rate year amortization by \$0.446 million and rate base by \$1.617  
9           million.

10       Q.     Can you first address the issue of the treatment of the IBO and WMS software  
11           investment in the RG&E businesses and the NYSEG Gas business?

12       A.     Yes. Staff correctly identifies in its testimony, on pages 209-210, that the  
13           Commission found in Case 05-E-1222 that "NYSEG neither had nor obtained any  
14           authority to defer these costs or capitalize them for inclusion in rates beyond  
15           2006."

16       Q.     Is this a complete characterization of the Commission's findings in Case 05-E-  
17           1222?

18       A.     No. With respect to the IBO and WMS issue, on page 72 of the Order associated  
19           with Case 05-E-1222, the Commission further states that, "the software costs at  
20           issue here were covered by the rates established by the current rate plan and they  
21           are not includable in rates subsequent to this period."

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. What is the proper context for the Commission's further statement in the Order  
2 associated with Case 05-E-1222 that you just mentioned?

3 A. The issue of IBO and WMS software being considered as Costs to Achieve under  
4 the Commission's Order Adopting Provisions of Joint Proposal with  
5 Modifications in Case 01-E-0359 and 01-M-0404, issued and effective  
6 February 27, 2002 (the "2002 Order"), which established the NYSEG Rate Plan,  
7 was heavily covered in the Case 05-E-1222 proceeding. It was decided by the  
8 Commission that these IBO and WMS costs were, in fact, Costs to Achieve as  
9 anticipated by the 2002 Order. Costs to Achieve were built into rates according to  
10 the schedule included as Appendix A to the Joint Proposal that was approved as  
11 part of the 2002 Order. For NYSEG, the amounts spent on IBO and WMS, when  
12 combined with the rest of the Costs to Achieve, did not exceed the \$87.714  
13 million included in Appendix A as Costs to Achieve, and by implication were  
14 amounts that were covered by rates established by the current rate plan.

15 Q. Do you agree that the Commission's determination with respect to IBO and WMS  
16 for NYSEG Electric was consistent with the concept that Costs to Achieve  
17 covered by rates established in the current rate plan should have been recognized  
18 on the Company's books by the end of the rate plan?

19 A. Yes.

20 Q. Where does this lead with respect to the NYSEG Gas business?

21 A. The Company would expect that the Commission will not have changed its  
22 position with respect to the recognition and recovery of Costs to Achieve during  
23 the rate plans that resulted from the process put in place by the 2002 Order. The

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Company would expect that the Commission would rule in favor of the Staff  
2 position put forth for the NYSEG Gas business in this instant proceeding, and  
3 would authorize the Staff proposed reduction in amortization of \$446,000 and  
4 reduction in rate base of \$1,617,000.

5 Q. Where does the Company agreement on this point lead with respect to the RG&E  
6 Electric and Gas businesses?

7 A. There is a critical difference between RG&E and NYSEG when it comes to Costs  
8 to Achieve. RG&E's Costs to Achieve that were built into rates, as established by  
9 the aforementioned Appendix A to the Joint Proposal in Case 01-M-0404, were a  
10 total of \$59.936 million. Following the Commission's decision in Case 05-E-  
11 1222, this would be the level that was includable in rates.

12 Q. Why is this concept important?

13 A. Since the Commission decision in Case 05-E-1222 indicated that "the software  
14 costs at issue here were covered by the rates established by the current rate plan  
15 and they are not includable in rates subsequent to this period," the Integrated  
16 Business Operations ("IBO") and Work Management System ("WMS") costs that  
17 RG&E incurred would have to meet that criteria to be excluded at this time by the  
18 Commission from future rates.

19 Q. Do those IBO and WMS costs incurred by RG&E meet the criteria of being  
20 "covered by rates established by the current rate plan"?

21 A. No.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. Why not?

2 A. RG&E incurred Costs to Achieve during the 2002 time frame that totaled more  
3 than the \$59.936 million identified in the Joint Proposal Appendix A referenced  
4 previously, and those costs to achieve did not include any amounts spent on WMS  
5 and IBO. WMS and IBO were primarily capital costs incurred in 2004. Exhibit  
6 \_\_ (RG&E RRP- 28) Rebuttal shows the non-capital Costs to Achieve incurred by  
7 RG&E during the 2003-2006 time frame, which was after the Company had  
8 exceeded its merger order “allowed in rates” cost to achieve level. The exhibit  
9 shows certain IBO and WMS costs were incurred in 2004 and 2005. These would  
10 have been non-capital data transfer and training costs, which are not able to be  
11 capitalized under GAAP or the Company’s capitalization policy.

12 Q. If the IBO and WMS investment cannot be considered a Cost to Achieve covered  
13 by rates, what is the proper treatment of these costs?

14 A. RG&E appropriately capitalized most of these IBO and WMS costs in 2004,  
15 according to long-standing Commission-authorized practice as well as Company  
16 policy and prevailing GAAP. It is completely logical that all costs incurred by  
17 RG&E for these significant investments should be accounted for under then-  
18 existing policies and GAAP as primarily capital. Given that these IBO and WMS  
19 costs were incurred after RG&E exceeded the Cost to Achieve amount included in  
20 rates, the appropriate accounting, after reflecting those costs as a capital  
21 investment, is to amortize them over the estimated useful life of the investment.

22 Q. Is a Commission ruling for RG&E to allow the IBO/WMS amortization to  
23 continue and the IBO/WMS rate base to be included (which is to reject Staff’s

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 proposed treatment for RG&E IBO/WMS) inconsistent with the Commission's  
2 Order in Case 05-E-1222?

3 A. No. In fact, it is entirely consistent with that previous Order, and the Commission  
4 should so find in this proceeding.

5 Q. Can you address each of Staff's points regarding ongoing application of a revised  
6 software capitalization policy?

7 A. Yes. Staff's points are summarized on page 217 of its testimony.

8 Q. What is Staff's first point and the Companies' response?

9 A. Staff indicates that for software to be capitalized, it should have a cost by  
10 Company of at least \$500,000 and a minimum useful life of at least seven years  
11 when first developed or obtained. We agree that a dollar threshold by Company  
12 is appropriate and would prevent the capitalization of relatively small dollar  
13 investments at individual companies, which Staff has indicated is a negative  
14 aspect of the Companies' current policy. We could also accept that a default  
15 useful life of seven years would be acceptable, but would want to have the option  
16 of separately requesting a different service life (either shorter or longer) if specific  
17 circumstances warranted such a request. The Commission or Staff would need to  
18 approve any service life different than the default seven years.

19 Q. Does the Company agree with a \$500,000 threshold for software capitalization?

20 A. No. The \$500,000 level is too high for a dollar threshold for capitalization of  
21 software, and that moving to that level at this point would require the addition of  
22 O&M costs to the Companies' current rate request. As shown in Company  
23 response NYRC-0075 (DPS-075), which is included in Staff Exhibit \_\_ (SRRP-

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1           1), there are two projects that would have in-service dates prior to the end of the  
2           rate year, totaling \$430,000 in expenditures during the rate year, which would fall  
3           under the \$500,000 level. We respectfully suggest leaving the threshold at  
4           \$100,000, and avoiding any modifications to the currently filed revenue  
5           requirements for this issue.

6   Q.    What is Staff's second point and your response?

7   A.    Staff's second point is that any upgrades and enhancements must exceed  
8           \$500,000 and must extend the useful life of the software by a minimum of seven  
9           years.

10   Q.   Do you agree with a \$500,000 threshold on upgrades and enhancements?

11   A.    No. We would have the same response with this \$500,000 level as we did for the  
12           initial development threshold in Staff's first point.

13   Q.    Would an extension of the useful life of the software by seven years be effective?

14   A.    No. We cannot fathom how such an extension could be effective. This type of a  
15           limitation would suggest that major system software upgrades not extending the  
16           useful life of the software but costing in excess of \$5 million would be excluded  
17           from capitalization even if they were being done solely to upgrade functionality to  
18           meet new regulatory requirements. This does not make sense. What makes more  
19           sense is for the Company to apply, using whatever dollar threshold is ultimately  
20           ruled on by the Commission, existing guidance from the Commission and FERC  
21           USOA in line with betterment accounting for purposes of capitalization.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. What is the current guidance on betterment accounting contained in the USOA?

2 A. Basically, if costs are expended on an existing retirement unit, and those costs  
3 make the affected property more useful, more efficient, of greater durability, or of  
4 greater capacity, then the costs of the betterment is charged to the existing plant  
5 account. The Company would be agreeable to having an upgrade or enhancement  
6 be a trigger for an analysis of expected useful life of the overall software  
7 investment being upgraded or enhanced, including the cost of the upgrade or  
8 enhancement.

9 Q. What is Staff's third and final point and your response?

10 A. The Staff Panel states that software costs will be identified as a unit of property  
11 and will be amortized over a fixed period of seven years. We are in agreement  
12 with Staff on this point, with the caveat we raised earlier regarding the  
13 opportunity to request an amortization period different than seven years if specific  
14 circumstances warrant such a request.

15 **Seneca Storage**

16 Q. Please describe Staff's adjustment related to Seneca Storage.

17 A. With respect to the sale of NYSEG's Seneca Storage facility and pipelines, and  
18 assuming a January 1, 2011 closing date, Staff's testimony proposes to remove  
19 \$1.174 million of gas O&M expenses, \$515,000 of depreciation expense, taxes of  
20 \$763,000 and \$5.135 million of net plant. In addition, Staff states that this is  
21 developing news and revenue requirement effects should be updated throughout  
22 the case.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. Do you agree with Staff's adjustments and recommendation?

2 A. No.

3 Q. Can you please explain why you disagree with this adjustment?

4 A. The Company will be making a Section 70 filing with regard to the sale of the  
5 Seneca Storage facility and pipelines. The regulatory treatment of this sale will  
6 be handled in the Section 70 proceeding.

7 Q. What adjustments do you propose?

8 A. We would reverse Staff's adjustments included in Exhibit \_\_ (SRRP-3) Schedule  
9 I relating to the sale of Seneca Storage assets. The reversal of Staff's adjustments  
10 increase Operation & Maintenance Expenses \$1.774 million (\$177,000 in the  
11 category "CRO Panel Initiatives" and \$1.597 million in the category "Other"),  
12 Property Taxes \$1.2 million, and Rate Base \$10 million.

13 Q. Is the Company providing a schedule of the costs embedded in its NYSEG gas  
14 delivery rates associated with the Seneca Storage facilities that are being proposed  
15 for sale?

16 A. Yes. Attached as Exhibit \_\_ (NYSEG RRP-13) Rebuttal are schedules detailing  
17 the test year and rate year costs embedded in NYSEG Gas delivery rates. The  
18 Company is providing this information so that the Commission is informed of the  
19 amounts included in this rate case.

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1           **Inflation Factor**

2           Q.     Do you concur with Staff’s recommendation that all items affected by the GDP  
3                   inflation factor should be adjusted before the Commission decision to reflect the  
4                   latest known GDP inflation rate?

5           A.     Yes.

6           **ACCOUNTING COMPLIANCE FILINGS - PAST MULTI-YEAR CASES**

7           **NYSEG Annual Compliance Filings**

8           Q.     Have you performed an audit of the Staff adjustments included in this case  
9                   relating to the NYSEG and RG&E Electric & Gas Annual Compliance Filings  
10                  (“ACF”)?

11          A.     Yes.

12          Q.     Did Staff provide backup worksheets to support its adjustments to the ACF?

13          A.     Yes. In its response to NYSEG-RGE-140 (DPS), Staff provided a series of Excel  
14                  files. These files are included in this filing as Exhibit \_\_ (NYSEG RRP-14)  
15                  Rebuttal. Staff also provided an additional worksheet to support the NYSEG  
16                  Electric Rate Base. That worksheet is also included in Exhibit \_\_ (NYSEG RRP-  
17                  14) Rebuttal.

18          **NYSEG Adjustments to the Staff ACF Exhibit**

19          Q.     Have you prepared an exhibit that sets forth the Company position regarding the  
20                  ACF adjustments proposed by Staff?

21          A.     Yes. Exhibit \_\_ (NYSEG RRP-14) Rebuttal sets forth those results.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. Please describe the exhibit.

2 A. Exhibit \_\_ (NYSEG RRP-14) Rebuttal sets forth the adjustments to the Asset Sale  
3 Gain Account (“ASGA”) that Staff proposes. It also shows the Company  
4 adjustments and Company position relating to the adjustments made by Staff.

5 The exhibit consists of a cover page and five schedules. Schedule A is a summary  
6 of adjustments to the ASGA based on the Staff and Company Positions.

7 Schedules B, C and D relate to the Adjustments to Earnings Sharing. The  
8 calculation of Earnings Sharing is on Schedule B. Adjustments to Rate Base and  
9 Capitalization are on Schedule C. Schedules A and B are divided vertically into  
10 three sections. On the left side are the adjustments proposed by Staff.

11 Adjustments proposed by the Company are in the center of the page and the  
12 Company Position is on the right side. Schedule C is set up similarly except, due  
13 to the number of columns, the Staff position, Company adjustments and Company  
14 position are shown on pages 1, 2 and 3 instead of all on one page. The detailed  
15 calculation of the Staff Earnings Sharing that is shown on the left side of Schedule  
16 B, page 1 of Schedule C was taken directly from the spreadsheet provided by  
17 Staff in response to NYSEG-RGE-140 (DPS). The only change to those  
18 schedules was the division of the “Adjustments to Capital Structure” section at the  
19 bottom of the page into two sections - one debt and one equity – to accommodate  
20 Company adjustments. This expansion had no effect on the amounts calculated in  
21 the Staff section. The Company adjustments to the Staff Position are made in the  
22 center section of Schedule B and page 2 of Schedule C. Schedule D is detail  
23 supporting the Company adjustments on Schedules B and C.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1           **Schedule A – Summary**

2           Q.     Please describe Schedule A.

3           A.     Schedule A summarizes the adjustments to the Asset Sale Gain Account

4                 (“ASGA”) based on Staff and Company positions. The adjustments to Earnings

5                 Sharing are developed on Schedules B, C and D.

6           **Schedule B – Earnings Sharing**

7           Q.     Please describe Schedule B.

8           A.     Schedule B is the calculation of the adjustments to the Earnings Sharing

9                 Calculation based on Staff and Company positions. The adjustments to Rate Base  
10                 and Capitalization on this page are developed on Schedule C.

11           **Schedule C –Rate Base and Capitalization**

12          Q.     Please describe Schedule C.

13          A.     Schedule C is the calculation of the adjustments to Rate Base and Cost of Capital.

14                 As we noted earlier, the Staff position shown on the left side of Schedule C came  
15                 directly from the Schedules provided by Staff in response to NYSE-RGE-140  
16                 (DPS).

17           **Rate Base Adjustments – Other Comprehensive Income (“OCI”)**

18          Q.     Referring to the adjustments to Rate Base shown at the top of Schedule C, please  
19                 explain the adjustment on line 1 to OCI.

20          A.     In NYSEG’s ACF filings, OCI was inadvertently included in the Capitalization.

21                 As Staff properly pointed out, OCI is a non-cash accounting entry and there is no  
22                 return required on it. By way of the Earnings Base-Cap Adjustment, part of the

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 OCI was allocated to the Capitalization supporting Rate Base, thereby overstating  
2 it.

3 Q. Do you agree with the Staff adjustment to remove OCI from the Rate Base?

4 A. We agree with the concept but not the amount. The Staff assumed that the  
5 amount of OCI in Rate Base was the allocated Electric portion of the average  
6 balances in account 174175 “Misc Current Accrued Liabilities –  
7 UBS/ABN/AMOR,” account 176401, “Hedged Assets – Common” and accounts  
8 in the 245 series, “Other Non-Current Liabilities – Hedge Swap.” These accounts  
9 relate to OCI, but were not directly assigned to Rate Base. As described earlier,  
10 OCI got into Rate Base by way of the Earnings Base-Cap Adjustment, but only to  
11 the extent that there was OCI in Capitalization. While not the major problem  
12 here, it should be noted that Staff failed to include in its calculation of the  
13 OCI/Hedge balance the net credit balances relating to Gas hedges in accounts  
14 182005 and 254085, and deferred taxes in the 109 accounts.

15 Q. Is that the only error that Staff made?

16 A. No. More importantly, Staff failed to recognize that the way OCI actually ended  
17 up in Rate Base was by way of the EB-CAP Adjustment. As Staff aptly described  
18 in its Revenue Requirement testimony, the EB-CAP adjustment synchronizes  
19 Capitalization with Rate Base. Therefore, no matter what is assigned directly to  
20 Rate Base, or is left out of the assignment as were all of the above-referenced  
21 accounts, the OCI in the Capitalization is what ultimately ends up allocated to  
22 Rate Base by way of the EB-CAP Adjustment.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. Was the amount of OCI in the Capitalization less than the amount of hedges and  
2 OCI that Staff identified by referring to the wrong accounts?

3 A. Yes.

4 Q. How did the Company calculate its correction to exclude OCI from Rate Base?

5 A. We corrected the Rate Bases in two steps. First, we removed all of the OCI  
6 accounts from Capitalization. Second, we assigned the OCI and all of the  
7 accounts listed above, including the ones missed by Staff, to Items Not in Rate  
8 Base. In this way, any capitalization that related to those assets was not allocated  
9 to the Electric and Gas Rate Bases.

10 **Rate Base Adjustments – Other**

11 Q. Please explain why the Company objects to the Staff adjustments to Rate Base on  
12 lines 2 through 9 on Schedule C.

13 A. Section VII.D of the Electric Joint Proposal was exceedingly clear on what items  
14 were to be included in the Earnings Sharing calculation and Section VII.E was  
15 equally clear on what items were to be excluded. None of the items that Staff  
16 excluded were on the list of Excluded Items and Temporary Cash Investments  
17 were specifically listed on the list of Included Items.

18 **Capitalization Adjustment – ASGA and OPEB Reserves**

19 Q. Do you agree with the Staff claim that the ASGA and OPEB reserves should be  
20 included in the capital structure supporting Rate Base?

21 A. Yes. Those reserves support part of the Rate Base and thereby reduce the need to  
22 raise additional outside capital. At the time, they were interest-bearing and  
23 therefore need to be in the capitalization supporting Rate Base.

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1 Q. In its ACFs, did the Company include those reserves in the capital supporting  
2 Rate Base?

3 A. Yes.

4 Q. At page 10 of Exhibit SRRP-11, the Staff stated that “NYSEG failed to include  
5 interest bearing obligations for the ASGA and OPEB reserve in its capital  
6 structure as such and instead included these obligations as additions to rate base.”  
7 Can you please explain how the Company did include those reserves?

8 A. Yes. Staff is incorrect in its assertion. As the backup to the ACFs clearly  
9 indicates, those reserves were included in Items Not in Rate Base. Also as shown  
10 in the Company workpapers supporting the ACFs (same method as shown on  
11 Schedule A of Exhibit RRP-4), the amount of capital supporting Rate Base was  
12 determined by starting with the total investor-committed capital (debt, preferred  
13 stock and common equity), and subtracting Items Not in Rate Base. Since the  
14 ASGA and OPEB reserves were in Items Not in Rate Base as credits, the process  
15 of subtracting Items Not in Rate Base from investor-committed capital added the  
16 reserves to capitalization, thereby increasing the amount of capital supporting  
17 Rate Base to include investor-committed capital and the interest-bearing reserves.

18 Q. Do you agree that 100% of the ASGA and OPEB reserves added to the capital  
19 structure supporting Rate Base should be considered debt?

20 A. No. The Commission requires that Non-Cash Return be accrued on those  
21 reserves at a high 10.5% annual rate. That is double the average cost of debt and  
22 higher than the overall cost of capital, including equity, on which rates were based  
23 in the JP. Clearly, there is an equity component to the NCR.

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1 Q. Is the Company assured of earning a full return on all of the equity in its capital  
2 structure?

3 A. No. Pursuant to Section VII.B of the JP, “the amount of common equity used in  
4 the earnings test will be determined by multiplying NYSEG’s actual monthly  
5 average electric rate base times either by NYSEG’s actual average common  
6 equity ratio for the year or 45%, whichever is less.” As shown on line 37 of that  
7 section, NYSEG’s actual equity ratio exceeded 45% for all five years of the term  
8 of the JP. Even with OCI corrected, the actual equity ratio exceeded 45% in 4 of  
9 the 5 years (it was 44.5% in 2003). The 45% cap therefore restricts the  
10 Company’s ability to earn the return projected at the time of the rate decision.

11 Q. Does the Staff imputation of 100% of the OPEB and ASGA reserves in the debt  
12 component of the capital structure further restrict the Company’s ability to earn a  
13 fair return on equity?

14 A. Yes. As shown on line 45, Staff’s imputation of 100% of the OPEB and ASGA  
15 reserves into the debt component of the capital structure would lower the equity  
16 ratio to as low as 39.7% – more than 10% below the actual amount of equity.

17 Q. Has NYSEG adjusted the Staff calculation to reflect part of the ASGA and OPEB  
18 Reserves in the Equity portion of the Capital Structure?

19 A. Yes. 45% of the OPEB and ASGA reserves has been transferred from lines 47  
20 and 48 in the Debt component of capitalization, to line 51 in the Equity  
21 component of capitalization. Consistent with this methodology, the cost of debt  
22 on line 28 has been adjusted down to the actual average embedded cost of debt.

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1           **Capitalization Adjustment - Goodwill**

2           Q.     Please describe the adjustment on line 52 of Schedule C.

3           A.     That adjustment removes the Goodwill reduction to Common Equity that Staff  
4           imputed.

5           Q.     At page 10 of Exhibit SRRP-11, Staff states that “book common equity was  
6           artificially raised due to the recognition of OCI and goodwill recorded for  
7           financial accounting purposes as equity.” Is the Staff correct that goodwill  
8           increases equity?

9           A.     No. Goodwill is as an Asset on the Balance Sheet – not Equity. Wikipedia  
10          defines Goodwill as the difference between the purchase price and the sum of the  
11          fair value of the net assets purchased. For regulated utilities Goodwill is the  
12          difference between the purchase price and the depreciated original cost of the  
13          assets purchased.

14          Q.     Please explain the effect of the Staff adjustment to Equity for Goodwill, shown on  
15          line 51 of Schedule C.

16          A.     Staff reduced common equity by the unamortized balance of Goodwill relating to  
17          Columbia Gas of New York that was acquired by NYSEG in the early 90’s. This  
18          is equivalent to an imputed write-off of those assets and causes the Equity ratio to  
19          appear lower than it actually is.

20          Q.     Does GAAP require that Goodwill be amortized or written down?

21          A.     Pursuant to SFAS-121, Goodwill only needs to be written down if the purchased  
22          assets are impaired.

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1 Q. Are those assets impaired?

2 A. No.

3 Q. Did NYSEG include Goodwill in Rate Base?

4 A. No. Goodwill was included in Items Not in Rate Base. As explained earlier in  
5 this testimony, the amount of capital supporting Rate Base is equal to the total  
6 capital minus Items Not in Rate Base.

7 **Capitalization Adjustment - OCI**

8 Q. Please explain the adjustment for OCI on line 53 of Schedule C.

9 A. As explained earlier, non-cash OCI was inadvertently included in the capital  
10 structures used in the ACFs. This adjustment corrects the Common Equity by  
11 removing the OCIs.

12 Q. Why has the Company adjusted the Staff amounts for 2003 and 2004?

13 A. The amounts used by Staff for those two years were incorrect. The amounts used  
14 by Staff for those two years did not match the books and the worksheets  
15 supporting the ACFs. This was discussed with the Staff auditor during the  
16 Company's audit.

17 **Capitalization Adjustment – Cap Equity at 45%**

18 Q. Continuing with Schedule C, please explain the adjustment to the average cost of  
19 debt on line 28.

20 A. This line was added to the calculation to cap the equity supporting Rate Base at  
21 45%, pursuant to Section VII.B of the Electric Joint Proposal. With 100% of the  
22 OPEB and ASGA Reserves imputed as debt, according to Staff the equity ratio  
23 never came close to the 45% target, even though the actual ratio exceeded the

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1 target, as noted above. Therefore, the Staff calculation did not include a provision  
2 to cap the equity.

3 **Schedule B Adjustments – Earnings Sharing**

4 Q. Please describe the adjustments that NYSEG made to the earnings sharing  
5 calculation on Schedule B.

6 A. As noted earlier, the Staff position shown on the left side of Schedule B came  
7 directly from the schedules provided by Staff in response to a Company data  
8 request. Most of the Company adjustments shown in the center section came  
9 from Schedule C and were explained earlier in this testimony. Two other  
10 adjustments were made on this schedule. First, the tax gross-up factor was  
11 adjusted to reflect the current 7.1% state income tax rate instead of the 7.5% rate  
12 that was superseded on January 1, 2007. The current tax rate is appropriate to use  
13 for this factor because it is only being used here to gross up excess earnings to the  
14 revenue line and not to determine the excess earnings itself. Second, the Staff  
15 elimination of interest on Temporary Cash Investments (“TCIs”) on line 8 was  
16 reversed for the same reasons, explained earlier, that the Staff elimination of TCIs  
17 was reversed on Schedule C.

18 **Earnings Sharing**

19 Q. Please describe how the adjustments to Earnings Sharing, developed on Schedules  
20 B, C and D, are used on Schedule A.

21 A. The amounts on line 1 of Schedule A reflect all of the adjustments that Staff and  
22 the Company have made to Earnings Sharing. As explained earlier, NYSEG  
23 accepts the Staff OCI adjustment, as corrected by the Company on Schedule C.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 That adjustment results in an increase to the ASGA of \$12.2 million instead of the  
2 \$40 million proposed by Staff.

3 **Standby Rates**

4 Q. Does the Company agree with the Staff adjustment relating to Standby Rates on  
5 line 2?

6 A. No. As explained in the rebuttal testimony of the Revenue Allocation and Rate  
7 Design Panel, NYSEG does not accept the Staff adjustment.

8 **Non-Cash Return**

9 Q. Referring to line 6, what is “Reflect Interest Rate Offset in ESM” as set forth on  
10 that line?

11 A. It is a term referred to on a Staff worksheet and has something to do with an  
12 adjustment that Staff indicated it made to its Non-Cash Return. We had to  
13 include it in this table to reconcile with the two adjustments to the ASGA (before  
14 NCR and NCR) that appear on Exhibit SRRP-11.

15 Q. Does the Company agree with the Staff adjustment relating to “Reflect Interest  
16 Rate Offset in ESM” and Non-Cash Return on line 8?

17 A. No. Staff had an obligation to notify the Company of any irregularities in its  
18 accounting or compliance filings much sooner - during the term of the JP - instead  
19 of waiting until over five years had elapsed. Had the Company been made aware  
20 of Staff’s concerns earlier, steps might have been taken to address those concerns.  
21 Should the Commission require any NCR, it would have to be recalculated based  
22 on the final outcome of all issues relating to the ACF.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1           **Interest on Income Tax Refunds**

2   Q.    Do you have any concerns with Staff's position regarding the disposition of  
3           interest on Income Tax Refunds?

4   A.    Yes. This issue was first brought up as part of Case 05-E-1222. In the  
5           Company's rebuttal in that case, an excerpt of which is attached as Exhibit \_\_  
6           (NYSEG RRP-28) Rebuttal, the Company made it clear that the rationale cited for  
7           the pass-back of interest income on income tax refunds also holds true for interest  
8           expense on income tax deficiencies. The Company's position in Case 05-E-1222  
9           was that the Company does not object to passing back interest income on refunds  
10          as long as it also is allowed to be made whole for interest expense on deficiencies.  
11          The Company incurred interest expense of \$15.3 million from October 1998  
12          through September 2002 related to audits covering tax years 1991-1999. The tax  
13          deficiencies incurred in these years directly resulted in the tax refunds in the years  
14          in question as the deductions taken in the earlier years were pushed off to the later  
15          years by the Internal Revenue Service. If the customer is entitled to interest  
16          income as is proposed by Staff, then equity dictates that shareholders be made  
17          whole for the \$15.3 million of interest expense incurred in previous years. This  
18          deferral of interest income and interest expense should also be applied to all  
19          future income tax audit results.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1           **Gain on Reacquired Debt**

2           Q.     Does the Company agree with the Staff adjustment relating to Gain on Reacquired  
3           Debt?

4           A.     No. The Staff adjustment is not consistent with the terms set forth in Sections  
5           VII.D & E – Included and Excluded Items – of the JP.

6           **Uncollectible Reserve Adjustments**

7           Q.     Does the Company agree with the Staff adjustment that excludes accruals to the  
8           Uncollectible Reserve that were booked during the term from the Earnings  
9           Sharing calculation?

10          A.     No. First, that adjustment is inconsistent with the terms set forth in Sections  
11          VII.D & E – Included and Excluded Items – of the JP. Nowhere in the JP does it  
12          say that these accruals should be excluded. Second, the Company follows strict  
13          accounting regulations relating to accruals to and from the Uncollectible Reserve  
14          and it has very little control over those accruals. Eliminating these required  
15          accounting entries can put the Company in an unfair position. Finally, if the  
16          Commission were to accept the Staff position, then the Commission should make  
17          a corresponding adjustment to the RG&E ACF and reverse the net reduction of  
18          the Uncollectible Reserve that occurred during the term of the JP.

19          Q.     What effect would this have on the RG&E ACF?

20          A.     It reduces earnings haring by \$2.65 million (\$5.3 million x 50%).

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

**NYSEG Gas Operations**

1  
2 Q. Staff claims that NYSEG Gas achieved earnings sharing during the first year of  
3 its rate plan, can you please discuss Staff's allegations?

4 A. Beginning on page 241 of the Staff Revenue Requirement Panel, Staff states that  
5 it has concerns about the method NYSEG used to annualize its gas earnings  
6 sharing threshold for the first gas earnings measurement period, the 15-month  
7 period from October 2002 to December 2003. Staff states that the Company  
8 incorrectly developed its earnings sharing threshold for the 15-month period  
9 based on a seasonally adjusted ratio of 1.43 and that Staff's interpretation of the  
10 of the Gas Joint Proposal is to utilize a simple method to compute the gas ESM  
11 for the 15-month period. Staff proposes to utilize a 15-month divided by 12-  
12 month calculation of 1.25. Under the Staff method, developed some 6 years after  
13 the Company's compliance filing, it would recalculate the NYSEG gas earnings  
14 sharing threshold, and produce compliance filing year 1 gas earnings sharing of  
15 \$2.7 million. Staff would then add non-cash return of \$1.1 million.

16 Q. Please provide some background regarding the 2002 NYSEG Gas JP.

17 A. The NYSEG Gas Joint Proposal resulted from the Company's rate filing in Case  
18 01-G-1668 and its gas cost deferral petition filed in Case 01-G-1668. The gas  
19 joint proposal was approved by the Commission on November 20, 2002 and  
20 included many specific provisions including the establishment of a Gas Supply  
21 Charge and weather normalization charge. Section VIII of the Gas JP is the  
22 Earnings Sharing Section. Section VIII.2 states, "NYSEG gas earnings exceeding  
23 an ROE of 11.5% during the period October 1, 2002 through December 31, 2004

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 an 12.5% for each 12-month period from January 1, 2005 through December 31,  
2 2008 will be shared between customers and shareholders 50%/50%.” NYSEG  
3 Gas filed a compliance filing on March 1, 2004 covering the period October 1,  
4 2002 through December 31, 2003. A copy of the compliance filing is attached.

5 Q. Did the first gas rate year cover a 15-month period?

6 A. Yes. Section VI.3 Term states that the first rate year of the Gas Rate Plan shall be  
7 a 15-month period starting October 1, 2002 and ending December 31, 2003.

8 Q. How did NYSEG calculate its gas earnings during the first rate year.

9 A. On Schedule B of its Year One Annual Compliance filing, the Company  
10 normalized its Gas Regulatory earnings for the 10/02 – 12/03 period. NYSEG  
11 then calculated the earnings sharing threshold to which the 11.5% sharing level  
12 would be established. Since the earnings period covered two fourth quarters  
13 (October to December), the Company calculated an earnings sharing threshold  
14 factor of 1.43 to reflect the fact that the earnings sharing threshold must be on an  
15 equivalent 15-month time period since the earnings being measured were on a 15-  
16 month time period.

17 Q. How did the Company calculate its earnings sharing threshold factor of 1.43?

18 A. As shown in its compliance filing, the Company compared the fourth quarter of  
19 2003 with the annual period of 2003 to get a ratio of gas earnings that would  
20 occur during the October to December period. Gas earnings fluctuate  
21 significantly from quarter to quarter since the majority of gas delivery earnings  
22 are recovered through volumetric charges.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. Can you illustrate how the NYSEG Gas earnings fluctuate during a calendar year?

2 A. Yes. The below table illustrates NYSEG’s actual gas earnings, by quarter, for  
 3 calendar years 2003 to 2009. As can be seen from the below table, 33% to 49%  
 4 of the Company’s gas earnings occur during the fourth quarter (exclusive of 2008  
 5 which contained the PBA charge in September 2008). As can also be seen from  
 6 the table below, the Company’s gas earnings swing dramatically from quarter to  
 7 quarter, with the first and fourth quarter earnings averaging over 100% of the gas  
 8 earnings for the year and the third quarter representing a loss period.

**NYSEG  
 Gas Business  
 Actual quarterly gas earnings  
 (\$000)**

<u>Year</u>	<u>NYSEG Gas Quarterly Income (\$000)</u>				
	<u>Q1</u>	<u>Q2</u>	<u>Q3</u>	<u>Q4</u>	<u>Total</u>
2003	\$ 21,000	\$ 1,768	\$ (5,364)	\$ 13,130	\$ 30,534
2004	15,927	699	(2,553)	12,781	26,854
2005	18,205	1,298	(5,456)	13,614	27,661
2006	18,255	945	726	12,137	32,063
2007	18,544	3,152	(253)	10,740	32,183
2008 (a)	19,866	1,757	(26,600)	11,135	6,158

<u>Year</u>	<u>NYSEG Gas Quarterly Income Percents</u>				
	<u>Q1</u>	<u>Q2</u>	<u>Q3</u>	<u>Q4</u>	<u>Total</u>
2003	69%	6%	(18%)	43%	100%
2004	59%	3%	(10%)	48%	100%
2005	66%	5%	(20%)	49%	100%
2006	57%	3%	2%	38%	100%
2007	58%	10%	(1%)	33%	100%
2008 (a)	323%	29%	(432%)	181%	100%

<b>2003 - 2007 Average</b>	<b>62%</b>	<b>5%</b>	<b>(9%)</b>	<b>42%</b>	<b>100%</b>
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9 (a) Reflects the impact of the Positive Benefit Adjustments

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. Staff claims that the Company should have calculated its rate year one earnings  
2 sharing threshold based on a simple 1.25 factor which assumes that earnings  
3 would occur evenly throughout the year. Does the Company agree with the Staff  
4 calculation?

5 A. No. It is clear that the Company's gas earnings during a fifteen month period that  
6 covers two fourth quarter periods will be higher than a fifteen month period that  
7 assumes gas earnings occur equally throughout the year. Staff's proposed  
8 earnings sharing threshold factor of 1.25 implies that actual gas earnings should  
9 occur evenly throughout the year. This simply is not the case. The Company's  
10 delivery rates are not designed to produce equal recovery throughout a calendar  
11 year. Staff should not be allowed to compute an earnings sharing threshold that  
12 does not match how the Company earns. The Staff proposal is inappropriate and  
13 should be rejected by the Commission.

14 **Staff Audit of the RG&E Annual Compliance Filings**

15 Q. Does the Staff Panel address Staff's audit of RG&E's Annual Compliance  
16 Filings?

17 A. Yes. Staff utilizes the last two pages of its 256 page rebuttal testimony to address  
18 these multi-year and extremely complex issues, making rebuttal of the Staff  
19 Panel's own testimony difficult since the Staff Panel provides no independent  
20 justification for its proposed adjustments. The Staff Panel simply asserts on page  
21 254 of its testimony that a number of adjustments are necessary to the Company's  
22 booked amount of deferrals, reserves balances and earning sharing amounts and  
23 then refers to Exhibit \_\_ (SRRP-12).

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. What is Exhibit \_\_ (SRRP-12)?

2 A. It is a document entitled “Staff Report on Rochester Gas & Electric Corporation’s  
3 2004-2008 Electric Annual Compliance Filings Earnings Sharing, Reconciliation,  
4 Exogenous Costs and Reserve Accounting in Cases 03-E-0756, 02-E-0198 & 03-  
5 G-0766 Electric and Gas Joint Proposals.”

6 Q. Was it prepared by the Staff Revenue Requirements Panel?

7 A. The role of the Staff Panel is unclear as the document states that it was prepared  
8 by the New York State Department of Public Service Office of Accounting and  
9 Finance.

10 Q. Do you agree with the adjustments set forth in Exhibit \_\_ (SRRP-12)?

11 A. No. We disagree with many of the adjustments, although given the short time  
12 available to prepare rebuttal testimony in these cases we cannot fully address each  
13 of the erroneous conclusions set forth in Exhibit \_\_ (SRRP-12). Exhibit SRRP-12  
14 was clearly written over the course of numerous months, if not years. Limiting  
15 the Company’s time to respond to such a document during the extremely limited  
16 rebuttal period violates normal considerations of due process. However, in the  
17 brief time available, we have sought to respond on a high level to several of the  
18 more erroneous claims made in the Staff Report.

19 **RG&E Annual Compliance Filings**

20 Q. Page 4 of Exhibit SRRP-12 states that “when the ACFs are received, Staff  
21 considers these annual filings as only preliminary because in every subsequent  
22 year, RG&E has consistently revised its computations for all prior years. Given  
23 the frequency and extent of these revisions, Staff’s final audit report on the 2004-

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1           2008 electric and gas ACFs has not been previously issued.” Did Staff provide  
2           any audit reports after the first ACF?

3   A.    No. In spite of several requests for feedback, with the exception of a few data  
4           requests and statements made in the Iberdrola acquisition proceeding, Staff  
5           provided no substantive response to the ACF filings.

6   Q.    In Exhibit SRRP-12, Staff proposes adjustments related to the amount of deferrals  
7           recorded during the term of the JP for items subject to reconciliation. Were these  
8           the items that Staff claims the Company made constant revisions to?

9   A.    No.

10   Q.    Did Staff provide preliminary findings or submit information requests relating to  
11           its issues surrounding the true-up of Security Costs?

12   A.    No.

13           **Variable Rate Debt**

14   Q.    At pages 9-10 of Exhibit SRRP-12, Staff states that “per the company’s response  
15           05-0035-RGE, the company agreed that it has miscalculated the amount of  
16           interest associated with variable rate debt in Calendar Year 2004. This correction  
17           lowers the associated deferral by \$344,000 for Electric and \$123,000 for Gas.”  
18           Did the Company make the adjustment on its books?

19   A.    Yes. In the response to 05-0035-RGE, the Company provided the amount of the  
20           adjustment and stated that the deferral had already been corrected on the  
21           Company’s books and reflected in the 2006 ACF.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. Since the 2006 ACF reflected the correction, is any further adjustment warranted  
2 in the Staff filing in this case?

3 A. No.

4 **Major Storms**

5 Q. At the bottom of page 11 of Exhibit SRRP-12, Staff states that it removed  
6 \$972,000 from the Major Storm Reserve on the grounds that two Heat Storms  
7 experienced in 2005 and 2008 are not storms and do not meet the criteria for the  
8 storm reserve. At the bottom of page 12, Staff stated that it removed \$840,000 of  
9 non-incremental costs from the Storm Reserve. Setting aside for a moment the  
10 propriety, or lack thereof, of the Staff exclusions, do these amounts and reasons  
11 match information previously provided by Staff?

12 A. No, the \$1.812 million total matches detail provided by Staff during the fall, but  
13 the parts and reasons do not. During the audit of this Staff filing, we asked Staff  
14 for clarification and received a schedule that categorizes the Staff exclusions  
15 differently than stated in Exhibit SRRP-12. Below is a summary:

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

Exclude Labor, Benefits & Loaders	\$	(882)
Exclude Heat Storm 2005		(517)
Exclude Heat Storm 2008		(268)
Exclude Storms < \$250k Target		(78)
Can't Match SAP		(67)

1 Total \$ (1,812)

2 Q. At page 11 of Exhibit SRRP-12, Staff states that “costs that may be charged to the  
3 reserve consist of the incremental costs of major storms which exceed \$250,000  
4 per storm.” Is that statement correct?

5 A. The Staff language is not consistent with the JP governing the accounting for  
6 storms. Section XI.1.b of the JP sets forth the definition of a Major Storm for  
7 accounting purposes. The \$250,000 threshold is one of the criteria that defines a  
8 Major Storm, and the \$250,000 is not indicated as being only incremental costs.  
9 Page 29 of the JP states that “restoration efforts costing less than \$250,000 will  
10 not be included in the definition of Major Storms and will be charged to RG&E’s  
11 operating expense.” Accordingly, the Company position on storms that cost less  
12 than \$250,000 overall are not accounted for as Major Storms. The JP does not  
13 provide for the Company to absorb the first \$250,000 of each Major Storm, nor  
14 does it require incremental costs associated with a storm to be greater than  
15 \$250,000 for it to qualify as a Major Storm.

16 **Exclude Labor, Benefits and Loaders**

17 Q. At page 12 of Exhibit SRRP, claiming that such costs are non-incremental, Staff  
18 removed from the storm reserve \$840,000 of regular labor, employee benefits,  
19 occupancy costs (building, leases, etc.) and fleet costs (vehicle costs –

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 depreciation, leases, etc.) associated with storms. Do you agree with the Staff  
2 adjustment?

3 A. First, as noted above, the amount excluded by Staff relating to labor, benefits and  
4 loaders was actually \$882,000. Second, the vast majority of this amount, which  
5 Staff excluded, relates to inter-company billings and overtime fleet charges that  
6 are clearly incremental and properly included in the deferral.

7 **Exclude Heat Storms**

8 Q. Do you agree with the Staff removal of \$972,000 of charges relating to two  
9 storms (one in 2005 and one in 2008) from the Major Storm Reserve, as noted on  
10 page 11 of Exhibit SRRP-12?

11 A. No, for two reasons. First, as noted above, the amount should be \$785,000  
12 instead of \$972,000. Second, the basis for Staff's adjustment is that these charges  
13 related to Heat Storms and that Heat Storms do not meet the criteria for Major  
14 Storms. Before discussing Heat Storms, it should be noted that the 2008 storm, in  
15 the amount of \$268,000 was classified incorrectly by Staff, and possibly on one  
16 Company report as a Heat Storm. In fact, as documented in the local media, the  
17 storm was a wind, rain and lightning storm that resulted in 3,000 customers being  
18 out of service. Accordingly, \$268,000 should be allowed, regardless of whether a  
19 Heat Storm is a storm or not. Referring to Heat Storms, Staff based its  
20 disallowance on a single definition from Webster's dictionary. As described  
21 earlier in this testimony (under the subheading "RG&E Storm Costs"), Staff has  
22 ignored the definition of a Major Storm as set forth in the JP as well as in Part  
23 97.1(c) of Commission regulations. Both of these storms met every one of those

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 criteria. Furthermore, a Heat Storm is generally recognized as a storm in the  
2 utility industry. In fact, while not related to reserve accounting, the category Heat  
3 Storms is specifically addressed in the tariffs of some utilities (*e.g.*, Pacific Gas &  
4 Electric Company). Both of these storms met every one of the Major Storm  
5 criteria set forth in the JP and the incremental restoration costs associated with  
6 them should be allowed to remain in the storm reserve.

7 **Exclude Storms < \$250k Target**

8 Q. Please explain how Staff determined that some of the deferred storm costs did not  
9 meet the \$250,000 target.

10 A. Staff only looked at the portion of the storm costs which it deemed incremental  
11 and that were charged to O&M expense, and excluded the storm costs which were  
12 charged to capital and/or non-incremental to O&M.

13 Q. Do you agree with the argument made by Staff on page 12 of Exhibit SRRP-12  
14 that capitalized storm costs should not be included in the determination of  
15 whether a storm meets the criteria of a Major Storm set forth in the JP?

16 A. No. Here again, Staff inappropriately interpreted the definition of a Major Storm  
17 as defined in the JP. Instead, as Staff stated on page 12 of Exhibit SRRP-12, it  
18 based its argument on the fact that “capital costs are recovered gradually through  
19 a rate of return and depreciation expense, and typically do not qualify for deferral  
20 treatment.” The Company agrees that certain storm restoration costs should be  
21 capitalized and depreciated, as prescribed under GAAP accounting – and that is  
22 exactly how the Company accounted for such costs. However, that is not the  
23 issue here. The issue is whether those costs should be used in the determination

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 of whether a storm is a Major Storm. The JP clearly indicates that a storm costing  
2 \$250,000 or more in total is a Major Storm for reserve accounting purposes. Not  
3 by accident, the JP properly does not say anything about excluding capitalized  
4 costs from that measurement, or limiting the costs to only incremental O&M costs  
5 when making the test against the \$250,000 amount. Furthermore, as noted earlier  
6 in this testimony, the JP does not provide for the Company to absorb any of the  
7 costs associated with a Major Storm. Every incremental dollar is eligible to be  
8 deferred if the total cost of the storm restoration equals or exceeds \$250,000. To  
9 make it clear, the Company has only deferred in the storm reserve non-  
10 incremental O&M costs associated with the storm restoration, and has capitalized  
11 (which is a form of deferral) other costs associated with storm restoration.

12 Q. Please give an example of the punitive nature of Staff's position.

13 A. Let us look at two storms, each costing \$700,000. The costs associated with  
14 Storm 1 are totally incremental O&M expense in nature. According to the JP,  
15 Storm 1 exceeds the \$250,000 threshold and the entire \$700,000 is deferred, and  
16 does not require the Company to absorb any additional costs. The total cost  
17 associated with Storm 2 is also \$700,000, but is split between \$500,000 capital  
18 and \$200,000 incremental O&M expense. According to the JP, Storm 2 also  
19 exceeds the \$250,000 threshold and should be deferred. \$500,000 is already  
20 "deferred" by way of being capitalized under GAAP accounting and the  
21 remaining \$200,000 is charged to the Storm Reserve, per the practice that the  
22 Company has followed for years. Here too, there is no extraneous absorption of  
23 costs by the Company with the associated adverse effect on earnings. However,

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 according to Staff, Storm 2 would not qualify as a Major Storm just because some  
2 of the costs are capitalizable under GAAP accounting. As a result, the Company  
3 would suffer \$200,000 in additional costs and related loss of earnings.

4 **Cannot Match SAP**

5 Q. Do you agree with the Staff adjustment to remove \$67,000 from the Major Storm  
6 Reserve on the bases that its analysis could not match SAP?

7 A. No. Staff has provided no record evidence of how it accessed its data or why its  
8 extracted data differs from the actual amounts booked.

9 **MFC – Working Capital - Carrying Costs**

10 Q. On page 44 of the Gas Rates Panel testimony, Staff identifies the working capital  
11 components of the Gas MFC. Please list those components.

12 A. Staff states that the gas MFC includes working capital components related to  
13 purchased gas expense, storage inventory and hedge margins.

14 Q. Does Staff recommend a change in the carrying costs rate for these gas supply  
15 related working capital components?

16 A. Yes. On page 52 of the Gas Rates Panel testimony, Staff states that the  
17 Companies have calculated the working capital components of the MFCs using a  
18 pre-tax rate of return. Staff goes on to state that since these items are subject to  
19 reconciliation, there is less risk of recovery and the “other customer capital” rate  
20 is more appropriate.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. Does the Company agree that utilization of an “other customer capital” rate is  
2 more appropriate?

3 A. No. Staff’s proposed utilization of the “other customer capital” rate is  
4 inappropriate. The Companies purchase natural gas daily for flowing purchases  
5 and storage inventory. The Companies fund those gas supply purchases with its  
6 overall cost of capital. Gas purchases are not funded with any particular source of  
7 capital but rather a combination of all of the Companies capitalization (debt and  
8 equity). Similar to materials and supplies and other assets, the Companies do not  
9 dedicate one particular type of capitalization to natural gas supply related working  
10 capital costs. In fact, the Companies short term debt is used to fund daily cash  
11 imbalances and needs, not to fund gas supply purchases for flowing gas and  
12 inventory.

13 Q. Staff proposes to use the other customer capital rate because these costs are  
14 reconciled through the MFC. Please comment.

15 A. Simple reconciliation of the costs is not an appropriate reason for lowering the  
16 carrying costs rate. These gas supply related costs are appropriately reconciled  
17 because they are fluctuate significantly with gas supply prices, not because they  
18 are financed with lower capital costs. Reconciliation does not dictate the source  
19 of funds used to finance such costs. In addition, it would be patently inequitable  
20 for the Companies to be forced to accrue carrying costs on other regulatory  
21 liabilities (such as PBAs) based on a pre-tax overall rate of return and then not be  
22 allowed to accrue carrying costs at the same rate for asset side costs. The  
23 Company utilizes both debt and equity to finance its assets, including working

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 capital and storage inventory. Finally, it is important to note that the Companies'  
2 overall cost of capital in this proceeding already reflects the low costs of capital  
3 associated with its variable rate debt (provided it is reconciled).

4 **Adjustments to ACF**

5 Q. Do you agree with the statement at page 28 of Exhibit \_\_ SRRP-12 that the Staff  
6 adjustments to the Company's ACF result in a balance owed to customers of  
7 \$16.9 million for electric and \$2 million for gas, including non-cash return, at the  
8 start of the rate year (September 1, 2010)?

9 A. No.

10 **Non-Cash Return ("NCR")**

11 Q. Setting aside the issues relating to the validity of the Staff ACF adjustments,  
12 based on those adjustments, do you agree with the amount of NCR that the Staff  
13 included its adjustment to the ASGA?

14 A. No, for two reasons. First, Staff had an obligation to notify the Company of any  
15 irregularities in its accounting or compliance filings much sooner - during the  
16 term of the JP instead of waiting until over five years had elapsed. Had the  
17 Company been made aware of Staff's concerns earlier, steps may have been taken  
18 to remedy some or all of the irregularities. Second, the Staff calculation of NCR  
19 is incorrect.

20 Q. Please explain the error in the Staff calculation of NCR.

21 A. Staff calculated NCR based on the entire amount of its proposed disallowed  
22 deferrals, net of the change in Earnings Sharing resulting from reversal of those  
23 deferrals. The JP does not provide for the accrual of NCR on all of those deferred

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 items and, therefore, it is inappropriate to accrue NCR on any retroactive  
2 adjustment to those balances. Staff also calculated NCR on its imputed  
3 acceleration of the amortization of IBO and WMS during the term of the JP. To  
4 the extent that the accelerated amortization were appropriate, NCR should only be  
5 applied to the effect that those accelerated amortizations have on Earnings  
6 Sharing, but not on the write-off of the IBO & WMS balances.

7 **Exogenous Costs**

8 Q. Does Staff, beginning on page 15 of Exhibit SRRP-12, begin a discussion of their  
9 position on exogenous costs?

10 A. Yes.

11 Q. Is there an overall theme that Staff has identified in this section?

12 A. Yes. The Company, over the five years of the rate plan that have been audited by  
13 Staff, consistently followed a practice of deferring exogenous costs associated  
14 with Accounting, Regulatory, Legislative or Tax Matters, as defined in the JP,  
15 based on an “event” driven methodology, rather than on an annual cost driven  
16 methodology. Staff does not agree with the Company’s use of an event-driven  
17 methodology.

18 Q. What logic does Staff attempt to apply to its disagreement?

19 A. Staff claims that the JP intended to provide the Company with “reasonable  
20 protection against costs outside its control that exceed a predetermined impact on  
21 its annual earnings” (page 16 of Exhibit SRRP-12).

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. Does the Company agree with this so-called “intent” of the JP?

2 A. Generally, yes. However, in this specific case of new mandates, the Company  
3 does not agree that the intent was limited to an impact on “annual” earnings. The  
4 impact of a new mandate across the term of the agreement is the relevant test.

5 Q. What is the Company’s belief?

6 A. The Company reads the plain language of the JP Section XII (1) as linked to an  
7 “event” or “mandate”. The Electric JP states “RG&E will be entitled to defer  
8 incremental costs or savings resulting from accounting, regulatory, legislative or  
9 tax mandates, including audits, occurring during the term of this agreement, as  
10 long as the incremental cost of each such mandate exceeds \$250,000 pre-tax...”  
11 The gas JP has the same language with a \$100,000 threshold amount. The  
12 Company finds no language in this section that indicates the incremental costs  
13 associated with a new mandate all must occur within a single calendar year to be  
14 considered for deferral. The Company agrees that the total incremental cost  
15 associated with a new mandate must exceed the \$250,000 or \$100,000 threshold  
16 before this section of the JP applies. The Company agrees that the intent of the JP  
17 was to take the additional costs of a new mandate outside of the Company’s  
18 control and provide reasonable protection.

19 Q. Is Staff correct when it states on page 16 that “the Company’s interpretation  
20 contradicts both the purpose of the provision and its own real-time interpretation  
21 of it”?

22 A. Absolutely not. The Company has made a proper interpretation of section XII (1)  
23 of the JP.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. What about Staff's footnote 6 on page 16, wherein Staff quotes from page 20 of  
2 the Company's Statement in Support of the JP, where the Company states "Once  
3 the total amount of applicable exogenous events in the aggregate exceeds  
4 \$2 million pre-tax annually, RG&E may defer the amount of applicable  
5 exogenous events exceeding \$2.0 million"?

6 A. Staff has made its own significant interpretation error, as it is looking at the  
7 wrong section of the JP in making its interpretation. The section of the JP that the  
8 Company Statement in Support is referencing is section XII (2), not section XII  
9 (1). Section XII (2) deals with exogenous costs associated with "flood, riot,  
10 terrorism, sabotage, war, declaration of a state or federal disaster in the service  
11 area and Acts of God." Section XII (2) does not deal with the mandates covered  
12 by section XII (1). The Company agrees that the plain language of the JP in  
13 section XII (2) does define \$250,000 thresholds and \$2 million in aggregate  
14 dollars on an annual basis. The Company notes that these terms clearly are not  
15 applied to the mandates in section XII (1) of the JP. Staff has clearly mixed up  
16 the two sections and has tried to apply an "annual" test to items that clearly were  
17 intended to have a "term of agreement" or "event-driven" test.

18 Q. What items did Staff argue did not meet their misinterpreted "annual" test and  
19 were identified as needing to be removed from their respective deferral accounts?

20 A. Staff identified, on page 17, Right of Way, NYS Income Tax Change and  
21 NERC/ERO for a total of \$635,000 Electric and Gas Pipeline Integrity for  
22 \$18,000 in the Gas Business. Staff further, on page 22, identifies a \$99,000  
23 NYISO charge as not meeting the annual threshold.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. What should the Commission do with respect to these amounts?

2 A. Clearly, the Commission should dismiss all of Staff's claims with respect to these  
3 items since the plain language of the JP, section XII (1) fully supports the  
4 Company's interpretation and long-standing practice.

5 **Outreach and Education ("O&E")**

6 Q. Can you please address the Company's disagreement with the Staff Panel's claim  
7 that RG&E's Voice Your Choice ("VYC") expenditures were excessive?

8 A. Staff's basic claim is that the Company spent excessively on its education and  
9 outreach program, Voice Your Choice for a Commission mandated program  
10 regarding retail choice. Staff alleges that the Company was limited to spending a  
11 total of \$2 million over the five year term of the Company's Electric Joint  
12 Proposal. Accordingly, the Staff seeks to reduce the Company's deferral amount  
13 by \$6.8 million for VYC.

14 Q. Do you agree with the Staff Report's adjustment?

15 A. No. There is no indication in the Joint Proposal ("JP") or in the Commission's  
16 Order in Case 03-E-0765, that the \$2 million was a five year guideline or in any  
17 way was the amount expected to be spent over five years. In fact, the Joint  
18 Proposal on its face anticipates that spending could exceed the \$2 million amount.  
19 Section XV.3 (iii) states that "to the extent that RG&E is required to spend more  
20 than \$2 million for this purpose, RG&E may defer those incremental costs for  
21 future recovery."

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. Did the Company incur additional costs and properly defer them?

2 A. Yes. It incurred such costs to implement an innovative and widely effective  
3 program, consistent with the terms of the JP.

4 Q. Does the Staff audit report itself recognize the innovative nature of the VYC  
5 program?

6 A. Yes. It states at page 13 that “while certain Staff acknowledged that the company  
7 program was innovative.” The Report attempts to mitigate the existence of this  
8 telling fact by claiming that “we are unaware of any mandate or requirement  
9 imposed by the Commission or recommended by Staff that required the company  
10 to spend at the greatly inflated levels it did during the term of the JP.” Despite the  
11 reports careful parsing of language on this point, Staff was heavily involved in  
12 VYC. The Company’s selection of media outlets and the very nature of the  
13 program were reviewed often with Staff, which did not challenge the media  
14 selected by the Company for this mandated customer outreach effort.

15 Q. Is the Staff Panel in any position to speak to the collaborative process RG&E and  
16 the Staff engaged in for VYC?

17 A. No. In response to NYSEG-RGE- 110, included as part of Exhibit \_\_ (NYSEG  
18 RRP-29), the Staff Panel acknowledges that no “Staff witness on the Revenue  
19 Requirements Panel was involved in the collaborative process RG&E conducted  
20 for the VYC.”

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. Are the Staff Panel's conclusions regarding the role of Staff in collaborating to  
2 implement VYC valid?

3 A. No. Clearly this Staff Panel has no personal knowledge of the close cooperation  
4 between the Company and Staff on the VYC process. When asked by the  
5 Company in an interrogatory to identify the number of times Staff met with the  
6 Company on VYC, the Staff Panel could not do so, claiming that "certain Staff  
7 employees who participated in the meetings no longer work for the department."  
8 Staff's claims now, many years later, regarding its allegedly limited participation  
9 in VYC are not credible and must be rejected.

10 Q. In summary, was the VYC consistent with the JP, implemented in close  
11 coordination with Staff and in furtherance of the Commission's stated goals?

12 A. Yes. VYC was developed in close coordination with Staff and was publicly  
13 lauded by then Commission Chairman Flynn as a "tremendous success" and  
14 produced the exact results desired by the Commission. The Commission should  
15 not accept the Staff's belated attempt now, many years later, to reach back and  
16 seek to punish the Company for its full cooperation with the Commission's stated  
17 goals.

18 **Sarbanes-Oxley**

19 Q. What is the Company's disagreement with Staff's position that nearly \$3 million  
20 of incremental costs associated with the adoption of the new Sarbanes-Oxley  
21 ("SOX") audit standards should be written off?

22 A. The Company treated the incremental costs of implementing the requirements of  
23 this new mandate as appropriately deferred under the exogenous cost sections of

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 its Electric and Gas JP's, which clearly allow for the deferral of incremental costs  
2 exceeding \$250,000 electric and \$100,000 gas for new mandates.

3 Q. How could Staff possibly conclude these incremental costs should be disallowed  
4 for recovery?

5 A. Staff claims on page 18 that their investigation into SOX audit requirements  
6 revealed that the law was passed in 2002 and the future requirements of the audit  
7 were well known before the JP became effective in Calendar 2004. Staff's  
8 investigation reached an incorrect conclusion.

9 Q. Why was their conclusion incorrect?

10 A. While the initial passage of the Sarbanes-Oxley Act did occur in 2002, the  
11 continued evolution and interpretation of the SOX Act was present in the media  
12 and accounting literature for the better part of two years after the Act was passed.  
13 External audit firms did not finally conclude what their responsibilities were  
14 under the SOX Act until 2004, and it was in that time frame when the details of  
15 how costs would change for all companies being audited became known.

16 Q. So was it possible for the Company to have, as Staff suggests on page 19,  
17 included the future costs of the SOX Act in the Company's financial forecast  
18 underlying the JPs?

19 A. No. The financial information underlying the 2004 JPs was based on a Calendar  
20 year 2002 test year, which included none of the incremental SOX costs, and the  
21 forecast rate year never included any adjustment for any incremental SOX Act  
22 costs, since they were not and could not have been known at the time. It is  
23 eminently unfair for Staff to try and reinterpret history at this time and suggest

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 that the mandated cost provisions do not apply. This legislative and accounting  
2 change is exactly the type of mandate that the JP language was intended to cover.  
3 Staff's disallowance must be overturned.

4 Q. Did Staff ever question the Company about the incremental cost of the SOX Act?

5 A. Yes. Staff submitted multiple information requests over the last several years  
6 about the subject, which the Company promptly answered. At no time prior to  
7 this audit, several years after the first of the SOX Act costs were deferred, was the  
8 Company made aware that Staff had any issue with these costs being deferred.

9 **Stray Voltage**

10 Q. What does Staff attempt to disallow associated with the Company's incremental  
11 spending on the newly required Stray Voltage testing and inspection?

12 A. Staff proposes the disallowance of more than \$1 million of Stray Voltage  
13 inspection costs based on two premises – First, that the Company did not provide  
14 evidence that the inspection costs were incremental to what may have been  
15 occurring prior to the new requirements being put in place, and second, that  
16 inspection costs are higher at RG&E than NYSEG and therefore must be wrong.

17 Q. Why are Staff's arguments not compelling?

18 A. Staff bases its first argument on an unsupported supposition that inspections the  
19 Company was performing prior to the new Stray Voltage requirements were the  
20 same as those required under the new order. The Company has answered several  
21 information requests in which it explained in detail how the inspections required  
22 under the Stray Voltage order were not the same as those being done in the  
23 normal course, and Staff has chosen to interpret this in a different way. On the

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 second point, Staff appears to have made a conclusion without researching what  
2 could cause inspection costs to be higher in a more urban area.

3 **NYISO Prior Period Billings**

4 Q. Why does Staff try to disallow the costs associated with the Company's  
5 compliance with a FERC order?

6 A. Staff tries to make a fine-line distinction between this item being a new regulatory  
7 mandate versus an "interpretation" of a purchase power tariff, and tries to saddle  
8 the Company with the costs associated with a NYISO dispute that needed  
9 resolution by FERC. Staff further tries to suggest that the Company had  
10 inconsistently applied NYISO accounting.

11 Q. What is the Company's reaction to Staff's attempt at disallowance?

12 A. Once again, Staff is trying to overcomplicate the simple reason for the Company's  
13 JP having an exogenous cost section. When the Company became obligated to  
14 pay the \$1.3 million to the NYISO for power that was initially delivered to the  
15 Company in 2001, common sense would dictate that the Company should be kept  
16 whole for that circumstance. The fact that the payment became due as a result of  
17 a regulatory order further bolsters such treatment under the new mandate section.  
18 The Commission should not be swayed by the attempt to differentiate this item by  
19 Staff. Staff's arguments associated with so-called inconsistent accounting should  
20 also be set aside by the Commission. The reserves established by the Company in  
21 1999 for ISO billings, and in subsequent periods, were not associated with the  
22 separable single issue that ultimately generated the large payment in 2005. These  
23 were reserves associated with the normal ISO billing process, wherein the ISO

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1 had the opportunity to do true-ups for extended periods. The Company followed  
2 normal accounting practices in the establishment of its ISO reserves and their  
3 eventual unwinding.

4 **Russell Re-Power**

5 Q. What is the Company's response to Staff's argument that the expenses associated  
6 with the discontinuation of the Russell repowering project should be considered  
7 2008 expenses?

8 A. The Company has a long standing practice, which is well documented in every  
9 one of the annual compliance filings submitted to the Commission, of identifying  
10 costs against the year in which they occurred, and incorporating any new  
11 information and assigning it to the appropriate year for calculation of earnings  
12 sharing. There are instances where the application of a credit back to a year in  
13 which earnings sharing occurred created additional customer sharing. This  
14 particular situation moved expense dollars from 2008 to 2007. 2007 was when  
15 the costs were incurred for Russell repowering. The decision to discontinue the  
16 project occurred in 2008, given the direction the Commission was taking in the  
17 merger proceeding. This is a perfect example of applying the "corrected"  
18 accounting – in other words, charging O&M expense instead of capital – in the  
19 year in which the costs were actually incurred for purposes of determining  
20 regulatory earnings in each of the two impacted years. The Staff had never before  
21 indicated any disagreement with this approach, which had been taken by the  
22 Company in each year of its compliance filings. The Commission should not  
23 accept the Staff movement of \$1.933 million of Russell Repowering costs from

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1           2007 to 2008 in the determination of regulatory earnings for each of those years.

2           The Company would conclude that its treatment of these costs, not Staff's,  
3           actually recognizes the economic substance of the transaction.

4           **AMI**

5           Q.    Does Staff try to make a similar argument as Russell Repowering with the  
6           Company's AMI spending?

7           A.    Yes. The Company wrote off, in 2008, about \$743 thousand of costs expended as  
8           capital in 2007. The Company had spent this money in response to a Commission  
9           order to begin work on AMI. When the Commission apparently discontinued its  
10          interest in pursuing AMI, the Company was obligated under GAAP accounting to  
11          write off the investment. Since the costs were initially incurred in 2007, that is  
12          the year the Company reflected the write-off when it filed its compliance filing in  
13          early 2009, which included an update to the 2007 filing.

14          Q.    Does the Company take the same position with respect to AMI at this time as it  
15          has for Russell Repowering?

16          A.    Yes. The Commission should accept the way the Company has reflected these  
17          AMI costs in its compliance filings and not be swayed by Staff's arguments.

18          **Software Amortization**

19          Q.    Does Staff identify in its audit report that certain IBO and WMS software  
20          investments made by the Company should be treated as costs to achieve and  
21          therefore written off at this time?

22          A.    Yes.

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. Has the Company already dealt with this issue earlier in this rebuttal testimony?

2 A. Yes. In the subsection titled “Accounting for Computer Software,” the Company  
 3 spends several pages showing the reasons why Staff’s position is simply incorrect  
 4 and inconsistent with a prior Commission order. As such, the Commission should  
 5 reject the idea that Staff raises with respect to writing off the investment in IBO  
 6 and WMS before it normally would be amortized under GAAP and Company  
 7 standards.

8 **RG&E ACF - Gas**

9 Q. Referring to the Staff adjustments to the RG&E Gas ACFs, please summarize the  
 10 adjustments that Staff made to the RG&E ACFs.

11 A. Following is a table that summarizes all of the adjustments that Staff made to Gas:

<u>Items Subject to Reconciliation</u>		
Security Costs		\$ (489)
Variable Rate Debt		(123)
<u>Reserve Accounting</u>		
Environmental Site Remediation		(30)
<u>Exogenous Costs</u>		
Sarbanes-Oxley		(960)
Pipeline Integrity		<u>(18)</u>
Total	Exhibit SRRP-12, pg 8	\$ (1,620)
<u>Non-Cash Return</u>		
		<u>(380)</u>
<u>Total</u>	Exhibit SRRP-12, pg 28	<u>\$ (2,000)</u>

12

**REBUTTAL TESTIMONY OF THE REVENUE REQUIREMENTS PANEL**

1 Q. Are any of the items in the list above different than the items addressed in the  
2 Electric ACF?

3 A. With the exception of Pipeline Integrity, where Staff disallowed \$18 thousand, all  
4 of the items are the same as those addressed in the Electric ACF and the issue  
5 surrounding Pipeline Integrity relates to the same issue.

6 Q. With the exception of Pipeline Integrity, do you agree with Staff on any of the  
7 other items?

8 A. No, for the same reasons that we already discussed relating to Electric ACFs.

9 Q. Do you agree with the exclusion of \$18,000 relating to Pipeline Integrity?

10 A. No. Staff argued that the \$18,000 was not eligible for deferral on the grounds that  
11 it did not meet the \$100,000 “annual” materiality threshold. As explained in the  
12 Electric ACF section of this rebuttal, the materiality threshold for government  
13 mandates is not an annual threshold, but an event threshold.

14 Q. Did you find any other errors in the Staff NYSEG Gas Revenue Requirement  
15 exhibit SRRP-3?

16 A. Yes. After the Company’s revenue requirement went to press, we found that the  
17 adjustment to Depreciation Reserve on Staff Exhibit SRRP-3, Schedule I, Item 31  
18 in the amount of \$3.590 million had the wrong sign as used in the Rate Base on  
19 Schedule F of Exhibit SRRP-4. As a result the Staff Rate Base was understated  
20 by \$7.180 million. This error was found after the Company’s revenue  
21 requirement exhibits had gone to press. Therefore, an adjustment will be needed  
22 to correct the Rate Base later in this proceeding.

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1 Q. Does this conclude the Panel's rebuttal testimony at this time?

2 A. Yes, it does.

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