



Lori A. Cole
Manager - Regulatory & Tariffs

September 30, 2022

VIA ELECTRONIC FILING

Honorable Michelle L. Phillips
Secretary to the Commission
State of New York
Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

Re: Tariff Proposals to Preclude Dual Market Participants from Receiving Duplicative Compensation in both Wholesale and Retail Markets Concurrently and Other Conforming Changes in Connection with the New York Independent System Operator's Implementation of FERC Order No. 2222 and No. 841

Dear Secretary Phillips:

The enclosed tariff leaves, issued by New York State Electric & Gas Corporation ("NYSEG") and Rochester Gas and Electric Corporation ("RG&E") (together the "Companies"), are transmitted for filing in compliance with the requirements of Appendix 7-H (electronic tariff filing system) to the New York State Public Service Commission's ("Commission") Codes, Rules and Regulations (16 NYCRR Appendix 7-H). The leaves are proposed to become effective on July 1, 2023. Appendix A sets forth a list of the revised tariff leaves pertaining to the following Schedules.

New York State Electric & Gas Corporation

P.S.C. No. 119 – Electricity
P.S.C. No. 120 – Electricity

Rochester Gas and Electric Corporation

P.S.C. No. 19 – Electricity

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Background

On September 17, 2020, the Federal Energy Regulatory Commission (“FERC”) issued Order No. 2222, that aimed to remove barriers for distributed energy resources (“DER”) to participate in wholesale markets regulated by FERC.¹ To address these barriers, Order No. 2222 required each regional transmission organization (“RTO”) and independent system operator (“ISO”) under FERC’s jurisdiction to revise its tariff to establish DER aggregators as a type of market participant that can register under one or more participation models contained in the RTO/ISO tariff that accommodates the physical and operational characteristics of each DER aggregation.² Of particular relevance to this filing, Order No. 2222 allows DER to simultaneously participate in RTO/ISO markets and retail programs (i.e., dual participation) but also allows RTOs and ISOs to exclude participation of DER that are receiving compensation for the same services as part of another program.³ Similarly, FERC Order No. 841 directed RTOs and ISOs to remove barriers to the participation of electric storage resources, including those interconnected to distribution facilities, in wholesale markets.⁴ Importantly, FERC found that wholesale purchases and sales by electric storage resources (i.e., for charging and discharging) must be at the applicable wholesale rate regardless of which participation model the electric storage resource uses to participate.⁵

One of the overarching principles of FERC Order No. 2222 is that dual participating customers must not receive compensation concurrently for the same service, such as compensation received for the sale of energy and capacity in the retail markets that is also receiving compensation in the wholesale markets. Order No. 2222 specifically prohibits double counting or double compensation of services provided by DERs.⁶ In compliance with Order No. 2222’s directives, the New York Independent System Operator (“NYISO”) proposed revisions to its Market Administration and Control Area Services Tariff (“Services Tariff”) and Open Access Transmission Tariff, which FERC accepted subject to a further compliance filing on June 17, 2022.⁷

With respect to dual participation and the potential for double counting of services, NYISO proposed in its first compliance filing to revise Section 4.1.10.6 of its Services Tariff to prohibit an aggregator from enrolling a new DER that “provides the same or

¹ *Participation of Distributed Energy Res. Aggregations in Mkts. Operated by Reg’l Transmission Orgs. & Indep. Sys. Operators*, Order No. 2222, 172 FERC ¶ 61,247 (2020), *order on reh’g*, Order No. 2222-A, 174 FERC ¶ 61,197, *order on reh’g*, Order No. 2222-B, 175 FERC ¶ 61,227 (2021). FERC defined DER as “any resource located on the distribution system, any subsystem thereof or behind a customer meter.” Order No. 2222 at P 114.

² Order No. 2222 at P 6.

³ Order No. 2222 at P 160.

⁴ *Elec. Storage Participation in Mkts. Operated by Reg’l Transmission Orgs. & Indep. Sy. Operators*, Order No. 841, 162 FERC ¶ 61,127 (2018), *order on reh’g*, Order No. 841-A, 167 FERC ¶ 61,154 (2019), *aff’d sub nom. Nat’l Ass’n of Regulatory Util. Comm’rs v. FERC*, 964 F.3d 1177 (D.C. Cir. 2020).

⁵ *Id.* P 289.

⁶ Order No. 2222 at PP 159-164.

⁷ *New York Indep. Sys. Operator, Inc.*, 179 FERC ¶ 61,198 (2022) (“Order on Compliance Filing”).

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substantially similar service in a retail market or program” that it provides in the NYISO-administered markets.⁸ Subsequently, FERC accepted NYISO’s proposed revisions on double counting but directed NYISO to delete the wording “or substantially similar” in a future compliance filing.⁹ Importantly, however, NYISO’s Services Tariff only require the DER aggregator, as a part of the registration process, to affirm through an attestation that the DER is not providing the same service to a retail market or program.

Similar to the intent of NYISO’s provision to prevent double counting of services, the proposed utility tariff revisions enclosed herein clarify customer eligibility to participate in the Companies’ DER retail programs when such DER also participate in the NYISO markets. The revised tariff provisions prevent duplicative compensation from the Companies and NYISO for the same service. In addition to avoiding duplicative compensation issues, the Companies seek to maximize dual participation opportunities for customers by proposing a new option for Value Stack Customers to receive payment for the energy and capacity from NYISO while remaining eligible to receive the applicable non-energy and non-capacity compensation from the Companies (i.e., the Environmental Component Credit, Market Transition Credit (“MTC”) Component, Demand Reduction Value (“DRV”) Component, Locational System Relief Value (“LSRV”) Component, and the Value Stack Community Credit Component). This new option, the Wholesale Value Stack (“WVS”), is identical to the Value Stack except, unlike WVS Customer-generators will receive energy payments and capacity payments, as applicable, from the NYISO either directly or through an aggregation in lieu of payment from the Companies, thus, preventing duplicative compensation. Value Stack customers are not forced into a decision under an all or nothing approach that they otherwise would have been faced with absent the proposed amendments that create the new WVS tariff.

Proposed Tariff Changes

The Companies are proposing several changes to their electric tariffs to allow dual participation and prevent duplicative compensation:

- Value Stack - the Companies added a new section titled “Wholesale Value Stack” as a new sub-section under their respective Value Stack tariffs. WVS customers may still receive the non-energy and non-capacity payments they would have received under the Value Stack but will receive energy and capacity payments from NYISO in lieu of payment from the Companies. The Companies included timing restrictions regarding switching between retail and wholesale service tariffs to accommodate NYISO’s capability planning year. A sentence was placed in both the Value Stack energy component section and the Value

⁸ NYISO, Compliance Filing, Docket No. ER21-2460-000, Transmittal at 41 (filed July 19, 2021) (“Compliance Filing”).

⁹ Order on Compliance Filing at PP 133, 135.

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Stack capacity component section to reinforce that WVS customers do not receive the energy or capacity payments from the Companies. In addition, clarifying language was added to explain the rules for customers returning to Value Stack after having been on WVS versus customers not previously enrolled in Value Stack who are switching from WVS to Value Stack, as far as capacity compensation election and eligibility lock-in dates.

- Phase 1 NEM customers cannot dual participate and must make an election to opt into WVS in order to participate in wholesale markets.
- P.S.C. No. 120 - Service Classification No. 10 and P.S.C. No 19 - Service Classification No. 5 customers (“Buy-back”) cannot dual participate. A Buy-back customer must take service under the Wholesale Distribution Service tariff on file with FERC in order to participate in the NYISO wholesale market¹⁰. The Companies included timing restrictions regarding switching between retail and wholesale service tariffs to accommodate NYISO’s capability planning year.
- A customer exporting to the NYISO through one of its wholesale DER participation models may also participate in the Distribution Load Relief Program, Commercial System Relief Program and Term and Auto-Dynamic Load Management Programs.
- Added the definition for Wholesale Distribution Service.
- Costs for WVS will be recovered in the same manner as costs are recovered for Value Stack.
- P.S.C. No. 120 - Service Classification No. 11 and P.S.C. No. 19 - Service Classification No. 14 (Standby Service) was updated to include a provision for customers with stand-alone Electric Energy Storage systems charging for wholesale participation purposes will be billed pursuant to the Wholesale Distribution Service tariff on file with FERC¹¹.

Requested Effective Date and Commission Action Date

The Companies are requesting that the Commission approve the proposed modifications to their respective electric tariffs with an effective date of July 1, 2023 to ensure that these tariff provisions are in effect prior to the date that customers may commence transacting in the NYISO markets pursuant to Order No. 2222. Further, the Companies respectfully request that the Commission issue an order on the merits of this filing in the

¹⁰ The Companies will file their respective Wholesale Distribution Service tariffs with FERC upon an Order approving or modifying this filing.

¹¹ The Companies will file their respective Wholesale Distribution Service tariffs with FERC upon an Order approving or modifying this filing.

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first quarter of 2023 but no later than April 1, 2023 in order to ensure the Company has sufficient time to file their Wholesale Distribution Service tariff with FERC.

Publication

The Companies respectfully request the requirements of Section 66(12)(b) of the Public Service Law and 16 NYCRR Section 720-8.1 regarding newspaper publication be waived as these changes may be communicated to customers through program information to be posted on the Companies' website.

A State Administrative Procedures Act Notice is attached for publication in the State Bulletin.

If there are any questions concerning this filing, please contact Michael Seeley at mseeley@nyseg.com or myself at lacole@nyseg.com.

Respectfully submitted,



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Rates and Regulatory Economics

Enclosures

New York State Electric & Gas Corporation
Rochester Gas and Electric Corporation
FERC Order 2222 Tariff Filing
List of Filed Leaves

P.S.C. No. 19 – Electricity

- Leaf No. 10.6, Revision 3
- Leaf No. 86.6, Revision 4
- Leaf No. 86.13, Revision 2
- Leaf No. 86.14, Revision 5
- Leaf No. 160.26.1.0, Revision 2
- Leaf No. 160.39.21, Revision 10
- Leaf No. 160.39.21.2, Revision 10
- Leaf No. 160.39.21.2.1, Revision 0
- Leaf No. 160.39.21.3.1, Revision 1
- Leaf No. 160.39.21.9, Revision 1
- Leaf No. 160.39.21.10, Revision 0
- Leaf No. 160.40.2, Revision 1
- Leaf No. 160.40.4, Revision 1
- Leaf No. 179, Revision 2
- Leaf No. 182, Revision 3
- Leaf No. 239, Revision 9

P.S.C. No. 119 – Electricity

- Leaf No. 159, Revision 2

P.S.C. No. 120 – Electricity

- Leaf No. 117.8.0, Revision 2
- Leaf No. 117.46.2, Revision 3
- Leaf No. 117.46.9, Revision 3
- Leaf No. 117.46.10, Revision 6
- Leaf No. 117.46.26, Revision 9
- Leaf No. 117.46.26.0, Revision 0
- Leaf No. 117.46.26.2.1, Revision 9
- Leaf No. 117.46.26.2.2, Revision 0
- Leaf No. 117.46.26.3.0, Revision 1
- Leaf No. 117.46.26.10, Revision 0
- Leaf No. 117.54, Revision 2

New York State Electric & Gas Corporation
Rochester Gas and Electric Corporation
FERC Order 2222 Tariff Filing
List of Filed Leaves

P.S.C. No. 120 – Electricity (Cont'd)

- Leaf No. 117.56, Revision 2
- Leaf No. 275, Revision 1
- Leaf No. 277, Revision 3
- Leaf No. 284, Revision 10