

**CASE 07-M-0906**

**STANDARDS PERTAINING TO AFFILIATES AND  
THE PROVISION OF INFORMATION**

**APPENDIX I  
TO THE JOINT PROPOSAL**

These Standards Pertaining to Affiliates and the Provision of Information (“Standards”) address the relationships among New York State Electric & Gas Corporation (“NYSEG”), Rochester Gas and Electric Corporation (“RG&E”),<sup>1</sup> RGS Energy Group, Inc. (“RGS”), Avangrid Networks, Inc. (“Networks”), Avangrid Service Company (“Service Co.”), Avangrid, Inc. (“AVANGRID”), Iberdrola, S.A. (“Iberdrola”), any entity that would be considered an “affiliated interest” under Public Service Law §110(2) (such entities, the “affiliates”), any Unregulated Load-Serving Entity (“ULSE”) affiliate, including any Energy Services Company (“ESCO”), and competitors of the ULSE or other affiliates. References in these Standards to any of the foregoing entities shall be deemed to include their successors.

Notwithstanding these Standards:

1) Any ULSE providing retail commodity service remains bound by the Commission’s Uniform Business Practices (UBP) that apply to all such ULSEs, and the DISCO remains subject to the UBP to the extent provided therein.

2) All cost and revenues recorded on the DISCO’s books of account from all affiliate transactions shall conform in all material respects to the Commission’s Uniform System of Accounts.

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<sup>1</sup> Individually and collectively, NYSEG and RG&E are referred to herein as the “DISCO.” References to the DISCO herein are with respect to all regulated and tariffed services the DISCO provides.

## Standards of Conduct

The following Standards of Conduct shall govern the DISCO's relationship with any energy supply and energy service affiliates, including any ULSE:

- i) There are no restrictions on any affiliate's using the same name, trade names, trademarks, service name, service mark or a derivative of a name, of Iberdrola, AVANGRID, Networks, RGS or the DISCO or in identifying itself as being affiliated with Iberdrola, AVANGRID, Networks, RGS or the DISCO. The DISCO will not provide sales leads involving customers in its service territory to any unregulated affiliate, including any ULSE, and is prohibited from giving any appearance that it represents any unregulated affiliate. Unregulated affiliates are prohibited from giving any appearance that they represent the DISCO in matters involving the marketing of services by the DISCO or other affiliates. If a customer requests information about securing any service or product offered within the service territory by an unregulated affiliate,<sup>2</sup> the DISCO must offer to provide a list of all companies that are qualified and approved pursuant to governmental or DISCO standards (including retail access standards) as providers of similar products or services within the DISCO's service territory. While this list may include Iberdrola, AVANGRID, and Networks affiliates, the list must provide information by company in alphabetical order and in no way may place greater emphasis on or promote any company in which Iberdrola, AVANGRID or Networks has a

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<sup>2</sup> In this context, "customer" refers to any existing, former, or prospective customer identified as such to the DISCO.

financial interest. At no time, nor in any situations, shall any DISCO employee acting in his or her official capacity place greater emphasis on or promote any affiliate, other than to acknowledge, at the request of the customer, that an affiliation exists between the DISCO and the affiliate.

- ii) The DISCO will not provide services on preferential terms to affiliates. The DISCO will not provide services on preferential terms, nor represent that such terms are available, exclusively to customers who purchase goods or services from, or sell goods and services to, an affiliate of the DISCO. The DISCO will not purchase goods or services on preferential terms offered only to suppliers who purchase goods or services from or sell goods or services to an affiliate of the DISCO. This standard does not prohibit two or more of the unregulated affiliates from lawfully packaging their services.
- iii) All similarly situated customers, including energy services companies and customers of energy service companies, whether affiliated or unaffiliated, will pay the same rates for the DISCO's utility services and, in the event that any tariff provision affords the DISCO discretion in the application of such provision, the DISCO shall apply such tariff provision in a consistent manner. In particular, the DISCO shall process all requests for similar service in the same manner, within a similar time period, and without any preferential treatment for customers seeking services from Iberdrola,

AVANGRID and Networks affiliates. The DISCO shall not give preference to a customer of an affiliate, or to an affiliate, regarding repairs or maintenance, or operation of its system, or interconnections and dispatch.

- iv) Release of proprietary customer information relating to customers within the DISCO's service territory shall be subject to prior authorization by the customer and subject to the customer's direction regarding the person(s) to whom the information may be released unless such release is otherwise authorized or required by law or the Commission. If a customer authorizes the release of information to a DISCO affiliate or one or more of the affiliate's competitors, the DISCO shall make that information available to the affiliate and/or other competitors designated by the customer on a simultaneous and comparable basis.
- v) Except for purposes of complying with applicable statutes, regulations and orders, or providing information to the Senior Management and Officers of Iberdrola, AVANGRID, Networks, RGS or Service Co., the DISCO will not disclose to any other affiliate (other than Service Co.) any customer or market information (which includes proprietary information held exclusively by the DISCO about its gas and/or electric transmission and distribution systems and/or regulated operations such as availability or curtailments) relative to its service territory including, but not limited to, information that it receives from a marketer, customer or prospective customer, which is not available from sources other than the DISCO unless it makes such information available to its affiliate's competitors on

a simultaneous and comparable basis. Only those employees of the recipient affiliate whose functions require that they have access to the subject information for compliance purposes shall be provided such access. Such employees shall be instructed to maintain the confidentiality of such information. Training shall be provided to all DISCO employees regarding DISCO policies and procedures restricting information sharing between DISCO employees engaged in Distributed Energy Resource (“DER”) procurement and/or Platform Service Revenue (“PSR”) activities and DISCO employees not engaged in DER procurement and/or PSR activities.

- vi) These Standards shall not, however, preclude the DISCO from disclosing such information to its regulated affiliates or to employees of Service Co. for purposes of participation in joint arrangements, alliances or similar transactions pertaining to purchasing, sales, trading, transportation, storage and similar business functions intended to produce economies and efficiencies from which customers can benefit. Information provided pursuant to the preceding sentence need not be made available to competitors of the DISCO or competitors of the DISCO’s affiliates. Service Co. shall not disclose such information to unregulated affiliates.
- vii) Information about any vulnerabilities (if applicable) in the New York electric grid and the gas pipeline network shall be available within the headquarters of the DISCO, and access to customer data (*i.e.*, names,

addresses, telephone numbers, social security numbers, credit reports) shall be available within the headquarters or customer service centers of the DISCO. The DISCO may provide to an employee of an affiliate customer, market, or proprietary information, including pursuant to Sections (v), (vi) and (vii), only if such employee executes a Protective Agreement with the DISCO obligating the employee and the affiliate to maintain the confidentiality of the information. The DISCO shall provide any such Protective Agreement to the Staff of the Department of Public Service (“DPS Staff”) upon its request.

- viii) If any competitor or customer of the DISCO believes that the DISCO has violated the standards of conduct established in this section of the agreement, such competitor or customer may file a complaint in writing with the DISCO. The DISCO will respond to the complaint in writing within twenty (20) business days after receipt of the complaint. After the filing of such response, the DISCO and the complaining party will meet, if necessary, in an attempt to resolve the matter informally. If the DISCO and the complaining party are not able to resolve the matter informally within fifteen (15) business days after the filing of such response, the matter will be referred promptly to the Public Service Commission (“Commission”) for disposition. This provision shall not preclude the Commission from addressing any such matter more expeditiously in the event that exigent circumstances so require.
- ix) The Commission may impose on the DISCO remedial action, consistent

with the Commission's statutory authority, for violations of the Standards of Conduct. If the Commission, after affording the DISCO a full and fair opportunity to present its position as to any alleged violations of these Standards, finds that the DISCO has violated the Standards, it shall provide the DISCO notice of its findings and may afford the DISCO a reasonable opportunity to remedy such conduct. In the event that the Commission affords the DISCO an opportunity to remedy such conduct and the DISCO fails to do so within a reasonable period after receiving such notice, the Commission may take remedial action with respect to the DISCO to prevent it from further violating the Standard(s) at issue.

- x) In the event an affiliate business, or the assets of that business, is sold or otherwise is no longer an affiliate, such non-affiliated company will be allowed to use the same name, trade names, trademarks, service names, service marks or a derivative of a name of DISCO in New York State for a period not exceeding six months, provided that such use is restricted to (i) use of the DISCO logo during the pendency of the transition to new ownership (e.g., vehicle and facility signage) and (ii) educating customers about the sales transaction and the impacts on customers. During that six-month period, DPS Staff will be given the opportunity to preview any communication using DISCO's name or logo that is to be sent from a non-affiliate to DISCO's utility customers in New York. DISCO shall supply a copy of any such communication to DPS Staff in advance of its actual use. DPS Staff and the DISCO will work

collaboratively to resolve any disagreement as to the content of the communication and to submit any disputes to the Commission's Alternative Dispute Resolution Process.

- xi) DISCO may license the DISCO's name, trade names, trademarks, service names, service marks, logos or a derivative of a name of DISCO for use in radio, internet or online, movie and/or television productions.
- xii) DISCO may allow industry organizations of which DISCO or its affiliates are members to use the DISCO's name, trade names, trademarks, service names, service marks, logos or a derivative of a name of DISCO.
- xiii) DISCO may license the use of the DISCO name, trade names, trademarks, service names, service marks, logos or a derivative of a name of DISCO to a non-affiliate to assist with the marketing of Commission-approved energy efficiency and/or REV-related programs.

### **Access to Books and Records**

The following provisions govern the access by DPS Staff, consistent with its duties under the Public Service Law and the Commission's rules and regulations, to all books and records<sup>3</sup> related to all transactions for goods and services and cost allocations that occur between the DISCO and any affiliates, including controlled affiliates:<sup>4</sup>

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<sup>3</sup> These Standards are not intended to supersede or otherwise limit the applicability of the Public Service Law or the provisions in the Commission's *Abbreviated Order Authorizing Acquisition Subject to Conditions* issued September 9, 2008 in Case 07-M-0906 or the Commission's *Order Adopting Staff Report and Approving Reorganization, Subject to Conditions as Modified and Clarified, and Making Findings on Management Audit Compliance* issued on November 5, 2013 in Cases 12-M-0066, et al.

<sup>4</sup> Controlled affiliates are entities in which Iberdrola has a controlling interest, including any entity which is controlled directly or indirectly by Iberdrola when combined with other Iberdrola ownership interests. Any dispute over whether an entity is controlled by



- i) (a) Staff will have access, upon reasonable notice and subject to appropriate resolution of any issues pertaining to applicable privileges and protections against disclosure, including the attorney/client privilege, and confidentiality, to the books and records of the controlled affiliate with which such transaction(s) occurred to the extent necessary to verify the reasonableness of the charges associated with the transaction(s).
- (b) In addition to the access to books and records as described in subparagraph (a) above, DPS Staff shall be provided such information pertaining to transactions with other affiliates to determine whether the charges or cost allocations are reasonable, including to verify that charges for goods and services presented to the DISCO are reasonable and are determined on the same basis as charges for the same goods or services that are presented to other entities. With respect to information about controlled affiliates, such information will be provided by the DISCO and the relevant controlled affiliates. With respect to information about other affiliates, such information will be limited to information provided by the DISCO. These Standards will not be interpreted as restricting DPS Staff in obtaining any affiliate information pursuant to Public Service Law §110. Nothing in this paragraph shall limit the Commission's authority over ratemaking issues arising out of such transactions.
- (c) All access to books and records pursuant to this paragraph (i) shall be provided at the DISCO's headquarters or, at the DISCO's option, at another affiliate office situated in New York State, provided, however,

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Iberdrola will be resolved by the Commission.

that if such access is not practicable, access will be provided at whatever reasonable location the DISCO deems appropriate at the DISCO's expense. In no event shall the provisions of this subparagraph (c) unreasonably delay Staff's ability to perform its audit functions.

(d) Any information provided under this Section shall be subject to appropriate resolution of any issues pertaining to applicable privileges and protections against disclosure pursuant to CPLR §§ 3101 and 4503 and as provided for in the Public Service Law and the Commission's regulations at 16 NYCRR Parts 3 through 5, and resolution of confidentiality issues pursuant to the Commission's regulations on confidential information at 16 NYCRR Part 6, with due regard to the regulations of any other commission that has jurisdiction over this information.

ii) A senior officer of Iberdrola, AVANGRID, Networks, RGS and the DISCO will each designate an employee, as well as an alternate to act in the absence of such designee ("Company Liaisons"), to act as liaison among Iberdrola, AVANGRID, Networks, RGS, the DISCO and DPS Staff. The Company Liaisons will be responsible for ensuring adherence to the established procedures and production of information for DPS Staff, and will be authorized to provide DPS Staff access to any requested information to be provided in accordance with these Standards.

## **Affiliate Relations**

### 1 General

i) Within 30 days of the commencement of operations, following the

formation of any new unregulated affiliate:

(a) The DISCO shall ensure that its books of account and other business records are maintained separate and distinct from those of such affiliate.

(b) The DISCO shall establish and maintain offices and work spaces in a separate building or leasehold that are separate and distinct from those of any such affiliate competing in any energy-related business (including but not limited to energy management services or wind or other generation services) within the DISCO's service territory.

Further, the DISCO shall ensure that such affiliate(s) shall not have preferential access to any property (tangible, intangible and/or intellectual), offices, work spaces, facilities, assets, plant, computers, or equipment of the DISCO (except as provided for elsewhere in these Standards).

ii) Cost allocation guidelines are attached as Schedule I to these Standards. These guidelines will be amended and/or supplemented, if necessary, to reflect affiliate transactions not contemplated by the initial guidelines set forth in Schedule I. The DISCO will file with the Director of the Office of Accounting and Finance of the Department of Public Service, or its successor Office, all amendments and supplements to the guidelines, thirty (30) days prior to making such change(s).

## 2 “Royalties”

There shall be no “royalty” payments payable by any affiliate of the DISCO or imputed to the DISCO or credited to DISCO customers; provided,

however, that applicability of this Section 2 shall be conditioned upon the DISCO's compliance with these Standards.

3 Transfer of Assets

- i) For all assets other than those defined as "electric plant" or "gas plant" under Public Service Law §2 whose transfer requires Commission approval under Public Service Law §70, transfers of assets having a market value at over \$1.0 million in total per each calendar year from the DISCO to an affiliate shall be at the higher of market value or net book value and transfers of such assets from an affiliate to the DISCO shall be at the lower of market value or net book value, except that transfers between the DISCO and Service Co. shall be at net book value. Net book value for the purposes of an affiliate transfer to the DISCO shall be at original cost, net of accumulated depreciation, to the Iberdrola affiliate that first acquires the asset.

4 Personnel

- i) Except as expressly provided otherwise herein, the DISCO and all affiliates will have separate operating employees.
- ii) Whether an officer or director of the DISCO may be an officer or director of another affiliate or whether an officer or director of an affiliate may be an officer or director of the DISCO shall be determined in accordance with the interlocking officers and directors table attached as Schedule II to these Standards.
- iii) A majority of the DISCO's boards of directors shall be individuals who

are not: (a) an officer or director of Iberdrola or AVANGRID; (b) an officer or director of any of Iberdrola's non-utility affiliates; or (c) an officer or director of any competitive energy affiliate or unregulated affiliate.

- iv) Employees may be transferred between the DISCO and an unregulated affiliate upon mutual agreement. Transferred employees may not be reemployed by the DISCO for a minimum of one year from the transfer date, unless a specific waiver is received from the Commission or its appointed designee. Employees returning to the DISCO may not be transferred to an unregulated affiliate for a minimum of one year from the date of return, unless a specific waiver is received from the Commission or its appointed designee.
- v) The foregoing provisions do not restrict any affiliate from loaning employees, on a fully loaded cost basis, to the DISCO to respond to an emergency that threatens the safety or reliability of service to consumers.
- vi) The compensation of DISCO employees may not be tied directly to the performance of any unregulated affiliates of Iberdrola; provided, however, that some elements of such compensation may be based upon the aggregate performance of RGS, Networks, AVANGRID, or Iberdrola, and the stock of Iberdrola may be used as an element of compensation.
- vii) The employees of the DISCO and the unregulated affiliates who are currently participating in common pension and benefit plans may continue their participation, and the cost shall be allocated as set forth in

Schedule I.

5 Provision of Services and Goods

- i) Subject to the guidelines set forth at Schedule I, corporate shared services (such as corporate governance, administrative, legal, purchasing, insurance and risk management, engineering and construction management, accounting, and information technology) may be provided by Service Co. or another affiliate of Iberdrola for the DISCO and other affiliates on a fully-loaded cost basis. During its provision of any corporate services, such entity shall be subject to all requirements in the Standards of Conduct pertaining to information obtained about/from the DISCO. Nothing in this paragraph 5(i) shall limit the Commission's authority to determine ratemaking issues arising out of such transactions.
- ii) The DISCO may provide other goods and services to affiliates, except that the DISCO may not use any of its marketing, sales, advertising, public relations, and/or energy purchasing employees to provide services to an unregulated affiliate for business within the DISCO's service territory. Before the rendition of such services by the DISCO commences, it shall notify its affected employees that they are subject to all the requirements of these Standards. The unregulated affiliate shall compensate the DISCO for the goods and services at tariffed rates or, if not tariffed, at the higher of fully-loaded cost or the prevailing market price if readily available. Nothing in this paragraph 5(b) shall limit the Commission's authority over ratemaking issues arising out of such transactions.

iii) Subject to the guidelines set forth at Schedule I, affiliates may provide services to Iberdrola, AVANGRID, Networks, , RGS, Service Co. and the DISCO, except that only Iberdrola or Service Co. may use any of its marketing, sales, advertising, public relations, and energy purchasing employees to provide those services to the DISCO, but, if Iberdrola or Service Co. provides such services to unregulated affiliates, it shall not provide the same service to both the DISCO and any unregulated affiliate on a joint basis but shall instead separate the contracts and billings for services provided to the DISCO from services provided to the unregulated affiliate. Nothing in this section shall authorize the DISCO to engage in a transaction with an affiliate if such transaction would otherwise be prohibited under these Standards, or authorize the DISCO to tender preferential treatment to any affiliate. Any management, construction, engineering or similar contract between the DISCO and an affiliate and any contract for the purchase by the DISCO from an affiliate of electric energy or gas shall be governed by Public Service Law §110, and will be subject to any applicable Federal Energy Regulatory Commission (“FERC”) requirements. All other goods and services (other than the corporate shared services described in Section 5(i) above) will be provided to the DISCO at the lower of actual cost or market value, or, if applicable, at a rate pursuant to tariff, or as otherwise authorized or permitted by the Commission. The actual cost shall be the original cost, net of accumulated depreciation, of the Iberdrola affiliate that first

acquired the good or service.

- iv) The DISCO and affiliates may be covered by common property, casualty and other business insurance policies so long as the DISCO is protected from potential insurance claims against the unregulated affiliates arising from such policies, as well as any increases in the DISCO's insurance costs resulting from the inclusion of property or assets held by unregulated affiliates in such insurance policies. The costs of such policies shall be allocated among the DISCO and the affiliates in an equitable manner.

## 6 Other Provisions

- i) All affiliates will be established as separate business entities from the DISCO.
- ii) DISCO will not conduct competitive behind-the-meter energy services, except that DISCO will be permitted to provide solutions to customer reliability and deliverability issues related to transmission and distribution.
- (iii) DISCO shall use competitive bidding practices or standard offers to purchase DER, if it makes such purchases. DISCO shall engage an independent party to monitor the DER procurement selection process when competitive bidding is used as the procurement process and a DISCO affiliate participates in the process.

### **Confidentiality of Records**

The DISCO and, as applicable, any affiliate shall designate as confidential any non-public information to or of which DPS Staff requests access or disclosure, and which such entity believes is entitled to be treated as a trade secret, and may submit information to the Commission or DPS Staff subject to the Commission's



regulations on confidential information at 16 NYCRR Part 6.

## **Reports**

- i) Commencing with the period ending December 31, 2008, Networks and the DISCO shall file, by April 1 of each year, a joint annual report to the Commission, summarizing, for the prior year, the asset transfers, employee transfers, employee loans, cost allocations, affiliate transactions, and competitor or customer complaints concerning the course of conduct between the DISCO and any affiliate that is related to these Standards.
- ii) Employee transfers between the DISCO and unregulated affiliates shall be reported by employee name, former company, former position, new company and new position.
- iii) Employee loans from an affiliate to the DISCO to respond to an emergency that threatens the safety or reliability of service to consumers shall be reported by employee name, companies involved and length of loan period.

**CASE 07-M-0906**

**SCHEDULE I**

**COST ALLOCATION GUIDELINES  
FOR  
AFFILIATE TRANSACTIONS**

Costs associated with goods and services that are provided by and among Iberdrola, AVANGRID, Networks, RGS, Service Co. and a DISCO or other affiliates will be treated under these allocation procedures designed to ensure that costs incurred on an affiliate's behalf are appropriately identified and assigned to the affiliate on a systematic, rational, and fully loaded basis.

**Direct Costs:** These are costs incurred by Iberdrola, AVANGRID, Networks, RGS, Service Co. or the DISCO in direct support of any or all affiliates. They will be charged directly to the affiliate without undergoing any allocation process. These costs would include goods and services provided that are readily ascribable to an affiliate entity and are for the specific benefit of the affiliate and not mutually beneficial to all affiliates. The amount so charged will be the original cost incurred within the affiliated group without any adjustments for intercompany profit or other purpose except the recognition of Indirect Costs described below.

**Indirect Costs:** These are consequential costs incurred in connection with Direct Costs. For example, the costs of employee benefits, sales and other such costs are indirect costs. These costs will be charged directly to affiliates, concurrently with the related Direct Costs.

**Joint and Common Costs:** These are other costs that encompass broad general and administrative corporate activity and thus in theory benefit all affiliates. As such, it is necessary that each affiliate bear a representative share of these costs. Examples includes: Corporate Governance (Board of Directors and Officers), General Accounting (including Accounts Payable

and Payroll), Finance and Treasury, Purchasing, Internal Audit, Human Resources, Real Estate, Insurance and Risk Management, Engineering and Construction Management, and Information Technology. The assignment of Joint and Common Costs will be made by allocation and charged to the appropriate books of account of each affiliate monthly consistent with current FERC and Commission requirements.

**Goods and Services Provided by Iberdrola and Affiliates:** Iberdrola and its affiliates may allocate costs to the DISCO for goods or services that replace the types of goods or services that had been provided by the DISCO, affiliates or third party contractors prior to the effective date of these Standards. All such transactions shall be made pursuant to a written agreement. Thirty days before the effective date of a written agreement that creates such replacement costs, the DISCO shall submit to the DPS Director of Accounting and Finance a copy of the applicable affiliate agreement(s), along with a completed summary (in the form provided at Attachment A), identifying each affiliate agreement and the reason for entering into such agreement (e.g., efficiencies, quality of service, expertise, etc.), and respond to any questions regarding such affiliate agreement(s) or allocation of replacement costs within ten business days after receipt of any such question. No such submittal is needed for the allocation of costs for any goods or services provided to the DISCO by the affiliates that existed prior to September 16, 2008 (“Pre-Existing Affiliates”), or for the first \$500,000 of replacement costs for goods or services provided each year to the DISCO by affiliates other than Pre-Existing Affiliates, or for services that Service Co. provides to affiliates that are not subsidiaries of Networks equal to 5% or less of the respective net incomes of NYSEG or RG&E. All goods or services provided to the DISCO by affiliates (other than the corporate shared services described in Section 5(i) of the Standards) shall be priced at tariffed rates, or, if not tariffed, at the lower of actual cost or market

price if readily available. The actual cost shall be the original cost, net of accumulated depreciation, of the Iberdrola affiliate that first acquired the good or service. Nothing in this paragraph shall limit the Commission's authority over ratemaking issues arising out of such transactions.