

IN THE MATTER OF:

Proceeding on Motion of the Commission to
Enable Community Choice Aggregation Programs.

Case 14-M-0224

COMMENTS OF THE MUNICIPAL ELECTRIC AND GAS ALLIANCE
REGARDING PROPOSED TARIFFS FOR PROVISION OF CUSTOMER DATA

INTRODUCTION

On April 21, 2016, the New York State Public Service Commission (“Commission” or “PSC”) issued its Order Authorizing Framework for Community Choice Aggregation Opt-out Program (“CCA Order” or “the Order”), in which it directed all utilities affected by the Order and intending to charge fees for provision of data to propose tariffs for Commission consideration. Each affected utility was also ordered to justify the fees based on the value of the data and the cost to the utility of producing the data. CCA Order, Ordering Clause 4. On August 5, 2016, Central Hudson Gas & Electric Corporation (“Central Hudson”), Niagara Mohawk Corporation d/b/a National Grid NY (“National Grid”), New York State Electric & Gas Corporation (“NYSEG”) and Rochester Gas and Electric Corporation (“RG&E”) individually submitted tariffs to comply with the Order.¹ The Municipal Electric and Gas Alliance (“MEGA”) submits these comments on the tariffs and the proposed data costs.

MEGA has previously stated on the record that all aggregate customer data (“aggregate data”) should be provided at no cost to CCA programs. MEGA has also previously stated that customer-specific data (“detailed customer information”)² should be obtained for a commercially

¹ A number of other utilities filed tariffs in response to the Order; those proposals are not the subject of this submission.

² The Order uses the terms ‘aggregated data’ and ‘customer-specific data’ which MEGA refers to in these comments as ‘aggregate data’ and ‘detailed customer information’ respectively.

reasonable price. Additionally, Central Hudson, National Grid, NYSEG and RG&E³ did not comply with the Order's requirement that utilities provide adequate justification for the proposed fees as being reasonably related to the value of the data and the cost to the utility of producing the data. MEGA has previously proposed that a third data type, basic/geographic customer data, should be included to ensure data accuracy while providing essential consumer privacy protections.⁴ Finally, as MEGA shared at a technical conference in January, other states where CCA has been successfully implemented, such as Illinois, assess only minimal charges associated with this data, a model which should be adopted in New York.

I. AGGREGATE DATA

Utilities should not charge municipalities or third parties acting on their behalf for aggregate data.⁵ Prior to filing these tariffs proposing costs for aggregate data, the utilities submitted comments in response to Commission-sponsored technical conferences stating that a basic level of data should be provided to customers or their designee without charge.^{6,7} For years, beginning long prior to the CCA Order, the Joint Utilities have voluntarily provided and continue

³ MEGA has not reviewed the tariffs of the other utilities and as such do not have a comment on the compliance of their proposed tariffs with the Order.

⁴ See MEGA's Comments on JU Data Security Agreement (Sept. 12, 2016), filed in case 14-M-0244, for further discussion regarding the three categories of data required for a CCA.

⁵ Aggregate data will include, but may not be limited to, the number of customers by service class, peak load contribution, the aggregated peak demand (kW) by month for the past 12 months, by service class to the extent possible, and the aggregated energy (kWh) for electricity or volumetric consumption for gas by month for the past 12 months by service class.

⁶ Case 14-M-0224, Proceeding on Motion of Commission to Enable Community Choice Aggregation Programs, December 16, 2015 Technical Conference Comments of Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., Central Hudson Gas & Electric Corporation, Inc., National Fuel Gas Distribution Corporation, New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation (Submitted January 13, 2016).

⁷ Case 14-M-0224, Proceeding on Motion of Commission to Enable Community Choice Aggregation Programs, January 20, 2016 Technical Conference Comments of Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., Central Hudson Gas & Electric Corporation, Inc., The Brooklyn Union Gas Company d/b/a/ National Grid NY, Keyspan Gas East d/b/a/ National Grid NY, and Niagara Mohawk Power Corporation d/b/a/ National Grid NY and National Fuel Gas Distribution Corporation (Submitted February 19, 2016).

to provide aggregate data⁸ annually and free of charge to the Utility Energy Registry.⁹ Additionally, the UBP directly states that “no distribution utility or MDSP shall impose charges upon ESCOs for the provision of the information described in this section,”¹⁰ which includes aggregate data as defined by the Order.

Further, Central Hudson did not include aggregated peak demand in their definition of aggregate data as per the Order.¹¹

II. DETAILED CUSTOMER INFORMATION- TARIFF PROPOSED DATA FEES

MEGA recognizes that the Commission's Reforming the Energy Vision (REV) proceeding (14-M-0101) is designed to create new markets, spur innovation and test new ideas. MEGA agrees with the Joint Utilities that provision of customer data will evolve as the market evolves.¹² CCA is conceived as a framework for creating this competition and is one of the major impending changes in the retail access market. However, Central Hudson, National Grid,¹³ NYSEG¹⁴ and RG&E¹⁵ have not priced detailed customer information in a way that reflects the current and near-

⁸ Each utility did not provide the same data to the Utility Energy Registry and all utilities did not supply aggregate peak demand data.

⁹ Case 14-M-0224, Proceeding on Motion of Commission to Enable Community Choice Aggregation Programs, December 16, 2015 Technical Conference Comments of Jim Yienger, Climate Action Associates LLC (Submitted January 22, 2016).

¹⁰ Case 19-M-1343, Uniform Business Practices, Section 4E (Issued February 2016).

¹¹ Case 14-M-0224, Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs, Compliance Filing by Central Hudson Gas & Electric Corporation (Filed Aug. 5, 2016); Tariffs pending under Submission ID 2787995 and 2787993.

¹² Case 14-M-0224, Proceeding on Motion of Commission to Enable Community Choice Aggregation Programs, January 20, 2016 Technical Conference Comments of Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., Central Hudson Gas & Electric Corporation, Inc., The Brooklyn Union Gas Company d/b/a/ National Grid NY, Keyspan Gas East d/b/a/ National Grid NY, and Niagara Mohawk Power Corporation d/b/a/ National Grid NY and National Fuel Gas Distribution Corporation (Submitted February 19, 2016).

¹³ Case 14-M-0224, Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs, Compliance Filing by Niagara Mohawk Corporation d/b/a National Grid (Filed Aug. 5, 2016). Tariffs pending under Submission ID 2788019.

¹⁴ Case 14-M-0224, Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs, Compliance Filing by New York State Electric and Gas Corporation (Filed Aug. 5, 2016). Tariffs pending under Submission ID 2788013 and 2788011.

¹⁵ Case 14-M-0224, Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs, Compliance Filing by Rochester Gas and Electric Corporation (Filed Aug. 5, 2016). Tariffs pending under Submission ID 2787981.

term markets. If, as the Commission has stated, residential and small-usage customers have not experienced the same value from retail access as have large customers,¹⁶ then it makes no sense to expect such customers to overpay for existing data.

The Commission ordered the affected utilities to create tariffs for the CCA Order and price data accordingly. The prices proposed¹⁷ assume value beyond that available in the current market and would reduce or eliminate customer savings, a main expected benefit of CCA programs. MEGA agrees that future detailed customer information, perhaps including interval meter data, may have a higher market value. However, these data are not included in the scope of detailed customer information defined by the Order.¹⁸ And these potentially higher market values have not yet been realized, making it premature to charge prices based on anticipated future growth which may not be realized until the market matures.

Each affected utility was ordered to explain why the fees proposed in their tariff are reasonably related to the value of the data and the cost to the utility of producing the data. Central Hudson and National Grid have not adequately justified the data fees and NYSEG and RG&E failed to provide or quote any fees at all. National Grid provided a table¹⁹ with values assigned to costs for IT programming and reporting; generation, review and compilation of data; and aggregator/market and customer inquiries but did not explain what these costs include and how they represent a financial burden to National Grid above and beyond responses to current data requests from ESCOs. NYSEG and RG&E provided a list of elements that would be used to determine a dollar value per eligible CCA customer, a model that includes a fixed charge plus in the case of NYSEG an appropriate market value adjustment, but both failed to calculate that value

¹⁶ Case 14-M-0101, Reforming the Energy Vision, Order Instituting Proceeding (Issued April 25, 2014).

¹⁷ See notes 11 through 13-15, above.

¹⁸ Case 14-M-0224, Proceeding on Motion of Commission to Enable Community Choice Aggregation Programs, Order Authorizing Framework for Community Choice Aggregation Opt-out Program, (Issued April 21, 2016).

¹⁹ See above, note 13.

as required by the Order. Additionally, NYSEG and RG&E neglected to provide details of what data are included in detailed customer information. Further, NYSEG and RG&E include legal costs associated with review of individual CCA Implementation Plans as part of the fee for data. The legal review of Implementation Plans is a burden assumed by the Commission in its regulatory capacity, not individual utilities, and as such should not be included in data costs. RG&E's data cost included regulatory costs, including costs of filings associated with CCA, a financial burden that should be borne by the Utility for a Commission-required filing. Beyond submissions necessary to achieve compliance with the CCA Order, which is required of all regulated utilities as part of their normal compliance with Commission rules and orders, any other filings related to specific CCA Programs by the utilities are voluntary, and should be made at the discretion of the utility, not at the expense of CCA Programs, whose customers will already have paid for the utility's regulatory compliance costs through their existing utility bills.

After the initial opt-out period ends, some municipalities may desire new eligible CCA customer data on a monthly or other regular interval basis. These data would be used to offer enrollment in the CCA Program to customers moving into the municipality. NYSEG and RG&E state that "it will be the responsibility of each municipality to identify customers who move in or out of their area," a burden inappropriately placed with the municipality. Utilities will have that information readily available, as customers open new accounts or relocate their service addresses within a utility's territory, and no justification has been provided which would suggest that the cost of providing this information would be prohibitive for the utilities. National Grid and Central Hudson need to justify the costs of access to these additional data as with access to other detailed customer information explained previously.

III. BASIC/GEOGRAPHIC CUSTOMER DATA

Basic/geographic customer data is not outlined in the Order, but is critical to assure accuracy of the eligible customers located in a given CCA municipality. Such customer premises data can be used to avoid inadvertent enrollment of non-resident accounts and should be delivered concurrently with the aggregate data, or otherwise at the request of a CCA Administrator prior to ESCO bidding and selection. Such customer premises data would include only the service addresses and account classifications for accounts served by the Utility and located within, or in proximity to, the CCA Municipality's (city, town, village) jurisdiction as of the date of the request by the CCA Administrator. This information will be used to verify customers and accounts that are automatically eligible to participate in the CCA Program based on the limitations on CCAs imposed in the CCA Order and accounting for any additional eligibility limitations imposed by a Municipality when it adopted a CCA Local Law. The need for these data and this verification process was noted by the Joint Utilities in their initial comments.²⁰ Furthermore, the Joint Utilities affirmed the availability of this data on a municipality-by-municipality basis in their comments on MEGA's proposed Implementation Plan.²¹

Ensuring a customer resides within a municipality that has authorized CCA is critical as the municipal authorization was used as a justification for changes in the UBP and as a proxy for individual consumer consent.²² As highlighted in MEGA's forthcoming Data Protection Plan,²³

²⁰ Case 14-M-0224, Proceeding on Motion of Commission to Enable Community Choice Aggregation Programs, Initial Comments of Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., Central Hudson Gas & Electric Corporation, Inc., National Fuel Gas Distribution Corporation, The Brooklyn Union Gas Company d/b/a/ National Grid NY, Keyspan Gas East d/b/a/ National Grid NY, and Niagara Mohawk Power Corporation d/b/a/ National Grid NY, New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation, (Issued February 17, 2015).

²¹ See Joint Utility Comments on MEGA Proposed Generic CCA Implementation Plan in Case 14-M-0224 (Sept. 12, 2016) ("Utilities will track customer participation solely by municipality . . . utilities should be permitted to manage the relationship at that level (i.e., between the utility and municipality, and the municipality's CCA ESCO).

²² Case 14-M-0224, Proceeding on Motion of Commission to Enable Community Choice Aggregation Programs, Order Authorizing Framework for Community Choice Aggregation Opt-out Program, (Issued April 21, 2016).

²³ MEGA's submittal of a generic Data Protection Plan is forthcoming, as of the date of this submission.

the transfer of premises data without customer identifications will provide the requisite protection of consumer privacy sought by the Commission. Municipalities require only addresses to verify customers' service locations are within their jurisdiction. For MEGA's CCA Program, there is no need for municipalities to have detailed customer information that includes name and account numbers. The provision of basic/geographic customer data will allow a CCA Municipality to check service locations against public tax data and ensure enrollment of only eligible customers without violating any customers' privacy. Central Hudson and National Grid do not recognize the need for these data and NYSEG and RG&E include them with detailed customer information, to be accessed to late in the process, i.e. after a contract is signed with an ESCO. As such, utility tariffs should be updated to provide access to basic/geographic customer data.

IV. TARIFFS IN ILLINOIS

In Illinois, as MEGA pointed out in the January 20, 2016 Technical Conference,²⁴ Ameren utility charges nothing for data, and Commonwealth Edison's charges are minimal: \$168 for a summary customer usage report, \$86 for a list of premises (service locations) and \$387 for detailed customer usage reports. These costs are quoted for each municipality, allowing the CCA Programs to deliver maximum economic benefit to consumers.

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Respectfully Submitted,

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²⁴ Case 14-M-0224, Proceeding on Motion of Commission to Enable Community Choice Aggregation Programs, January 20, 2016 Technical Conference Presentation Panel One: Governmental Aggregation CCA in Illinois: a case study in data access (Submitted January 19, 2016).