

**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

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Case 07-E-0949 – Proceeding on Motion of the Commission as to the  
Rates, Charges, Rules and Regulations of Orange and Rockland  
Utilities, Inc. for Electric Service

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**JOINT PROPOSAL**

Dated: April 18, 2008  
Pearl River, New York

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State Of New York  
Public Service Commission

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**JOINT PROPOSAL**

THIS JOINT PROPOSAL (“Proposal”) is made as of the 18th day of April 2008, by and among Orange and Rockland Utilities, Inc. (“Orange and Rockland” or the “Company”), Staff of the New York State Department of Public Service (“Staff”), Town of Ramapo (“Ramapo”), Small Customer Marketers Coalition (“SCMC”), and Retail Energy Supply Association (“RESA”)<sup>1</sup>, (collectively referred to herein as the “Signatory Parties”), and provides a proposed regulatory regime for the electric business of Orange and Rockland.

**I. INTRODUCTION**

The Proposal sets forth the terms of an electric rate plan for the period July 1, 2008 through June 30, 2011 (“Electric Rate Plan”). It prescribes agreed-upon rate levels and addresses operational and accounting matters for the term of the Electric Rate Plan, as well as various other rate design and revenue allocation issues. The Electric Rate Plan is designed to support the continued reliability, safety, and security of the Company’s electric system.

Among other things, the Electric Rate Plan reflects a revenue requirement based on the adoption of the electric sales and revenue forecast agreed to by the Signatory Parties, provides

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<sup>1</sup> SCMC and RESA support all aspects of the Proposal except for its treatment of the issue of the expansion of mandatory hourly pricing.

for the implementation of a revenue decoupling mechanism (“RDM”), reconciliation of capital expenditures, and the continuation of a low-income program. The Electric Rate Plan also provides for explicit revenue adjustments to Orange and Rockland related to customer service and service reliability performance measures, and provides for start-up funding of energy efficiency programs to be adopted by the Public Service Commission (“Commission”).

## **II. PROCEDURAL BACKGROUND**

On August 10, 2007, the Company filed with the Commission a proposal to increase the charges for electric service and make other changes to its Schedule for Electricity Service, P.S.C. No. 2 - Electricity. Under the Company’s initial filing, these changes were to become effective September 9, 2007. The rates contained in these amendments were designed to produce a revenue increase of \$47.8 million or an average increase of approximately 7.8 percent, including projected supply costs and gross receipts taxes, based on the estimated level of sales for the rate year, *i.e.*, the twelve months ending June 30, 2009.

The Company also presented a three-year rate proposal as an alternative to a one-year rate plan. Under the Company’s proposal, the rates for the first rate year would be the base from which projections are made for the second and third rate years of the three-year plan. These projections resulted in the Company seeking increases in the second and third rate years of \$10.0 million and \$5.1 million, respectively.

By orders dated August 27, 2007, and December 20, 2007, the Commission suspended the proposed electric rates first through January 6, 2008, and subsequently through July 6, 2008.

By notice dated September 11, 2007, a Procedural Conference was held on October 11, 2007, before Administrative Law Judge Gerald Lynch to discuss procedures for the case and a

case schedule. On November 15, 2007, Judge Lynch issued his Ruling Adopting Litigation Schedule and Memorializing Other Procedural Requirements (“Scheduling Ruling”).

The Company provided Staff and other parties with a preliminary update to the proposed revenue requirement on November 15, 2007. The update showed that the Company planned to reduce its proposed increase in revenue requirement by approximately \$4.1 million, from \$47.8 million to \$43.7 million. This decrease accounted, in part, for changes resulting from the Commission’s Order issued October 18, 2007 in Case 06-E-1433.<sup>2</sup>

On December 19, 2007, Staff filed its direct testimony, plus numerous supporting exhibits, in response to the Company’s electric rate filing. No other party filed direct testimony. On January 11, 2007, the Company filed its update/rebuttal testimony. No other party filed update and/or rebuttal testimony.

Pursuant to the Scheduling Ruling, exploratory discussions were held on January 17, 2008 among the parties at the Commission’s offices in Albany, New York.

Evidentiary Hearings were conducted on two days, i.e., February 5 and 6, 2008. Judge Lynch presided over the hearings. In addition to the Company, the following parties entered appearances during the course of the hearings: Staff, the Consumer Protection Board (“CPB”), Ramapo, and Rockland County. Six Company witnesses and eight Staff witnesses were made available for cross-examination.

In accordance with the Commission’s rules and regulations (16 NYCRR § 3.9), the Company notified all parties to this proceeding of the pendency of settlement negotiations, prior to the commencement of negotiations, by e-mail and letter dated February 13, 2008. Notice of

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<sup>2</sup> Case 06-E-1433, Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Orange and Rockland Utilities, Inc. for Electric Service, Case 06-E-1547, Petition of Orange and Rockland Utilities, Inc. Regarding Disposition of Property Tax Benefits from the Towns of Haverstraw and Orangetown, Order Setting Permanent Rates, Reconciling Overpayments During Temporary Rate Period, and Establishing Disposition of Property Tax Refunds (issued October 18, 2007) (“Temporary Rates Order”).

the impending negotiations was also duly filed with the Secretary of the Commission by letter dated February 13, 2008. Negotiations among the parties commenced on February 21, 2008. Additional settlement conferences were held on March 5, March 12, and March 25, 2008. Orange and Rockland, Staff, CPB, SCMC, Rockland County, Mirant New York, LLC, Strategic Energy, LLC, and Ramapo participated in all or some of the settlement conferences, in person or via teleconference.

### **III. ELECTRIC RATE PLAN**

#### 1. Rate Plan

The Electric Rate Plan covers the period from July 1, 2008 to June 30, 2011. The first rate year covers the twelve-month period ending June 30, 2009 (“First Rate Year” or “RY1”), the second rate year covers the twelve-month period ending June 30, 2010 (“Second Rate Year” or “RY2”), and the third rate year covers the twelve-month period ending June 30, 2011 (“Third Rate Year” or “RY3”). Appendix A sets forth a summary of the Company’s electric revenue requirement. The Electric Rate Plan allows Orange and Rockland the following base rate revenue increases:

First Rate Year	\$23,287,000
Second Rate Year	\$9,526,000
Third Rate Year	\$4,057,000

The Electric Rate Plan provides for the phasing in of the RY1 rate increase as follows:

First Rate Year	\$15,591,000 <sup>3</sup>
Second Rate Year	\$15,591,000
Third Rate Year	\$5,688,000 (in addition to a one-time collection of

\$9,903,000 through the Energy Cost Adjustment (“ECA”) as discussed below)

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<sup>3</sup> This number is adjusted for rate design purposes as set forth in Section 3 D.

The increases to be implemented and maintained in each rate year (i.e., permanently and cumulatively) under the recommended phase-in alternative reflect, in part, the application of interest at the Other Customer Capital rate on the rate increase that would have been collected absent the phase-in of the RY1 rate increase. The Company's pension and Other Post Employment Benefits ("OPEB") annual rate allowances were adjusted to bring the calculated revenue requirements in line with the phased-in revenue requirement (see Appendix G) on an earnings neutral basis. The proposed increases for RY2 and RY3 will be implemented on or before the first day of each rate year.

The Signatory Parties recognize that phasing in the RY1 increase over three years would produce higher base revenues for the Company at the end of RY3 than if the revenues were not phased in. In order to provide that revenues at the end of RY3 are not higher than they would have been if the rate increase was not phased in, \$5,688,000 of the RY3 phased in rate increase will be included in base rates and \$9,903,000 of the RY3 increase will be collected via a temporary surcharge through the ECA. This ECA surcharge will expire at the end of RY3.

Although the Signatory Parties agree that new rates should become effective July 1, 2008, because of administrative reasons, new rates will not become effective until August 1, 2008. For those customers subject to the RDM, the Company will be made whole for the revenue shortfall, if any, for July 2008 (i.e., the difference between the Company's actual revenues and the RDM targets) through the RDM true-up mechanism applicable to the cost month of July 2008. The true-up amount will be based on the class-specific revenue targets for that month. The July 2008 revenue shortfall, if any, will be recovered over 10 months (i.e., September 2008 through June 2009) through class-specific RDM adjustment factors.

For those customers not subject to the RDM, the Company will be made whole for the revenue shortfall for July 2008 (i.e., the difference between the forecast sales revenues included in the Company's revenue requirement calculation that would have been billed at new rates during July 2008, as compared to the same level of sales revenues at current rates). The July 2008 revenue shortfall will be recovered over 10 months (i.e., September 2008-June 2009) through separate class-specific cents per kWh charges.

The Company will file, no later than August 22, 2008, the statements necessary to effect recovery of the July 2008 shortfall, if any, to become effective on September 1, 2008.

Except as provided pursuant to Section 24 of the Proposal, Orange and Rockland will not file for a base rate increase to become effective prior to July 1, 2011.

2. Sales Forecasts

The Signatory Parties agree to a sales forecast for RY1, RY2, and RY3. Annual sales are forecast to grow at rates of 1.3%, 1.7% and 1.7%, respectively, in the three rate years. The sales volumes for each of these rate years are set forth in Appendix B. Total customers are forecast to grow at an average annual rate of 0.8% over this same period.

3. Rate Design & Unbundling

Orange and Rockland will implement the following rate design and unbundling changes:

A. Merchant Function Charges

Separate merchant function charges ("MFCs") will be established for the following service classification groups:

1. Service Classification ("SC") 1 and 19
2. SC 2, 20, 4, 5 and 16; and
3. SC 3, 9, 21, 22 and 25.

These MFCs will be applicable only to full service customers and will be used to recover costs associated with commodity-related competitive services. The MFCs applicable to full service customers will include the following:

- Commodity procurement, including purchased power working capital, and commodity revenue-based allocations of:
  - Information resources; and
  - Education and outreach;
- Credit and collections; and
- Uncollectibles – the uncollectibles percentage will be applied to the Market Supply Charge (“MSC”), including the MSC Adjustment. The uncollectibles percentage will be reset annually effective November 1 based on the Company's actual uncollectibles experience applicable to all electric and gas purchase of receivables (“POR”)-eligible customers for the thirty-six month period ended the previous June 30. The uncollectibles percentage applicable for the period July 1, 2008 through October 31, 2008 will be based on the Company's actual uncollectibles experience applicable to all electric and gas POR-eligible customers for the thirty-six month period ended the previous June 30, 2007.

The MFC fixed components (commodity procurement and credit and collections) for RY1 will be set as follows (cents per kWh):

<u>Service Classification</u>	<u>Commodity Procurement</u>	<u>Credit and Collections</u>	<u>Total</u>
Rate Year 1			
SC 1 and 19	0.210	0.103	0.313
SC 2, 20, 4, 5 and 16	0.107	0.041	0.148
SC 3, 9, 21, 22 and 25	0.063	0.015	0.078

The MFC fixed components will be subject to a full true up on an annual basis. Each year, all revenues associated with the MFC fixed components will be compared to the MFC fixed component recovery targets and any excess/shortfall will be recovered in the subsequent year's Transition Adjustment for Competitive Services.

B. Billing and Payment Processing

An unbundled charge of \$1.02 will be established for billing and payment processing and will be applicable to both the Company's electric and gas customers. This charge will be assessed on all full service customers and all retail access customers electing the Two Separate Bills option under General Information Section No. 7 of the Company's electric tariff. The billing and payment processing charge will not apply to retail access bills in which either electric or gas service is billed by the Company under the Utility Single Bill billing option.

The Company will make a gas tariff filing with the Commission, to become effective upon the commencement of Rate Year 1, which sets forth gas tariff changes necessary to implement the billing and payment processing charge specified above.<sup>4</sup> This change will be calculated in a manner intended to be revenue neutral to the Company's gas operations and is intended to require no changes in gas rates other than the change in the billing and payment processing charge.

C. Metering Charges

The current metering backout credits included in General Information Section No. 7.C.(4)(c) of the Company's electric tariff represent the costs of competitive metering services included in the Company's current delivery rates. To determine class-specific metering charges

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<sup>4</sup> This filing is consistent with Section 8.B. of the Joint Proposal approved by the Commission in its Order Establishing Rates and Terms of Three Year Rate Plan, issued October 20, 2006 in Case No. 05-G-1494, Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Orange and Rockland Utilities, Inc. for Gas Service .

for each rate year, these metering costs are increased by the same class-specific percentages as delivery rates for each rate year.

D. Delivery Rate Changes

Rate Year 1

The levelized Rate Year 1 revenue requirement of \$15,591,000 was then adjusted to remove the amounts included for New York State Gross Receipts and Franchise Tax surcharge revenues, Municipal Tax surcharge revenues and Metropolitan Transportation Authority Business Tax Surcharge revenues. These tax-related revenues total \$148,115. Further adjustments were made to subtract (a) \$447,700 representing the amount associated with purchased power working capital; (b) \$312,442 representing an increase in revenue associated with an increase in the Billing and Payment Processing Charge applicable to gas customers and the Billing Cost applicable to energy services companies (“ESCOs”); and (c) \$1,073,000 associated with commodity-related uncollectibles. The Rate Year 1 delivery revenue requirement was then increased by \$1,620,000 to reflect the roll-in from the ECA to base rates of the revenue requirement associated with the Middletown Tap. The result is a net delivery revenue increase of \$15,229,743.

Next, delivery revenues at the current rate level for each SC were realigned to reflect one third of the deficiency and surplus indications from the embedded cost of service (“ECOS”) study. The ECOS study used for rate design purposes was prepared using the alternative methodology presented by the Company in the rebuttal testimony of Company witness Nihill. Under this methodology, a portion of transformer costs are classified as being customer-related and the minimum-size calculation for overhead line transformers was developed using sizes up to and including 15 kVA. This ECOS study also reflects Staff’s proposal to use underground transformers up to and including 25 kVA in the development of the customer-related component.

The net delivery revenue increase was then allocated among the SCs in proportion to the relative contribution made by each SC to the realigned total delivery revenues. A mitigation adjustment was then made, on an overall revenue neutral basis, to limit the delivery increase percentage to any customer class to not more than 1.5 times or less than 0.5 times the overall delivery increase percentage for all classes. Classes having deficiencies which were mitigated in this manner are SC 3, General Primary Service, SC 4, Public Street Lighting, SC 5, Traffic Signal Lighting, and SC 16, Private Area Lighting.

A determination was then made of the portion of the delivery rate increase attributable to the competitive supply-related and credit and collections-related components of the new merchant function charge, the credit and collections-related component of the POR discount, the competitive metering charges and the billing and payment processing charge.

Rate Year 1 revenues associated with each of these competitive service charges were determined by service classification. Total Rate Year 1 competitive service charge revenues are as follows:

Merchant Function Charge Supply Related Component (excluding purchased power working capital)	\$3,100,403
Merchant Function Charge Credit and Collections Related Component	\$1,549,190
POR Discount Credit and Collections Related Component	\$972,814
Metering Charges	\$2,871,824
Billing and Payment Processing (applicable to electric customers)	\$1,246,762
Total	\$9,740,993

Competitive service charge revenues were then deducted from the SC-specific net delivery revenue requirements determined previously to compute the “non-competitive delivery revenue increase” for each SC. Rate Year 1 non-competitive delivery revenue increases by SC were then restated on the basis of the twelve months ended March 31, 2007, i.e., the historical period for which detailed billing data are available.

Revenue ratios were developed for each class by dividing the historical period delivery revenues for each class by the Rate Year 1 delivery revenues for each class at current rate levels. These revenue ratios for each class were applied to the Rate Year 1 “non-competitive delivery revenue increase” for each class to determine each class’s “non-competitive delivery revenue increase” for the historical period.

Each class-specific non-competitive delivery revenue increase, determined as set forth above, was divided by the total of the customer charge, usage charge, and where applicable, demand charge revenues, at current rate levels, to establish average class-specific percentages by which non-competitive delivery rates are to be increased.

For SC 1, 19, 3, 9, 21 and 22, the customer charge was increased by twice the class-specific average percentage increase. Revenue increases attributable to these increases in customer charges were then subtracted from each class-specific non-competitive delivery revenue increase. For SC 1 and 19, the remaining class-specific non-competitive delivery revenue increase was applied to the per kWh usage charges on an equal percentage basis. For SC 3, 9, 21 and 22, demand charges were increased by the class-specific average percentage increase. The remaining class-specific non-competitive delivery revenue increase, after subtracting revenue increases attributable to increases in customer charges and demand charges, was applied to the per kWh usage charges on an equal percentage basis.

For SC 2 and 20, there is no increase in customer charges. While these classes receive an overall increase in delivery revenues, the portion of their delivery revenues from which their customer charges are derived (the non-competitive delivery revenues) is being decreased. Thus, rather than applying a decrease, these customer charges will remain at current levels. A separate reduced customer charge has been established for the unmetered service subclass under SC 2 reflecting customer costs for this subclass. The non-competitive delivery revenue decrease for SC 2 is applied on an equal percentage basis to demand and usage charges. For SC 20, the demand charges were decreased by the class-specific average percentage decrease. The remaining non-competitive delivery revenue decrease applicable to SC 20, after subtracting the revenue decrease attributable to decreases in demand charges, was applied to the per kWh usage charges on an equal percentage basis.

Each charge in SC 4, 5 and the SC 16 dusk to dawn subclass was increased by their respective class-specific average percentage increases. For the SC 16 energy only subclass, the customer charge for metered service was increased by the average percentage delivery revenue increase for the subclass. The customer charge for unmetered service was set equal to the SC 2 customer charge for unmetered service. The remaining revenue increase applicable to this subclass, after subtracting revenue increases attributable to increases in customer charges, was applied to the per kWh usage charges on an equal percentage basis.

For SC 25, standby service, the charges in the Rate 1, Rate 2 and Rate 3 subclasses, in which there are currently no customers, were increased by the non-competitive delivery revenue increases of their otherwise applicable non-standby SCs. For SC 25 Rate 4, the non-competitive delivery revenue increase, allocated as described above, was applied to delivery charges on an equal percentage basis.

Customer charges and contract demand charges under SC 15 were increased by the delivery increase percentage for all classes.

#### Rate Years 2 and 3

After allocating the delivery revenue increases for RY2 and RY3 in a manner similar to that described above for RY1, revenue increases were applied to the various SCs as follows:

For SC 1, 2, 19, 20, 3, 9, 21 and 22, the customer charge was increased by twice the class-specific average percentage increase. Revenue increases attributable to these increases in customer charges were then subtracted from each class-specific non-competitive delivery revenue increase. For SC 1 and 19, the remaining class-specific non-competitive delivery revenue increase was applied to the per kWh usage charges on an equal percentage basis. For SC 2, 3, 9, 20, 21 and 22, demand charges were increased by the class-specific average percentage increase. The remaining class-specific non-competitive delivery revenue increase, after subtracting revenue increases attributable to increases in customer charges and demand charges, was applied to the per kWh usage charges on an equal percentage basis. No changes were made to the customer charge for the unmetered service subclass under SC2.

Each charge in SC 4, 5 and the SC 16 dusk to dawn subclass was increased by their respective class-specific average percentage increases. For the SC 16 energy only subclass, the customer charge for metered service was increased by the average percentage delivery revenue increase for the subclass. The customer charge for unmetered service was set equal to the SC 2 customer charge for unmetered service. The remaining revenue increase applicable to this subclass, after subtracting revenue increases attributable to increases in customer charges, was applied to the per kWh usage charges on an equal percentage basis.

For SC 25, standby service, the charges in the Rate 1, Rate 2 and Rate 3 subclasses, in which there are currently no customers, were increased by the non-competitive delivery revenue increases of their otherwise applicable non-standby SCs. For SC 25 Rate 4, the non-competitive delivery revenue increase, allocated as described above, was applied to delivery charges on an equal percentage basis.

Customer charges and contract demand charges under SC 15 were increased by the delivery increase percentage for all classes.

In RY3, \$9,903,000 of the increase will be collected on a cents per kWh basis via class-specific temporary surcharges included in the ECA. The revenue impacts of the RY1 rate design changes on customers are summarized in Appendix C to the Proposal.

The Company will file tariff revisions implementing the rate changes for RY1 as directed by the Commission upon its issuance of an Order establishing the terms of a three-year rate plan. By June 1, 2009 and 2010, the Company will file tariff revisions implementing the rate changes for RY2 and RY3, respectively.

E. POR Discount

The POR discount will include the following items:

- Uncollectibles;
- Credit and Collections Costs; and
- Risk factor.

The uncollectible component of the POR discount will be reset annually effective November 1 based on the Company's actual uncollectibles experience applicable to all gas and electric POR-eligible customers for the thirty-six month period ended the previous June 30. The uncollectible component applicable for the period July 1, 2008 through October 31, 2008 will be

based on the Company's actual uncollectibles experience applicable to all electric and gas POR-eligible customers for the thirty-six month period ended the previous June 30, 2007. The credit and collections component of the POR discount will be determined by dividing the Company's credit and collection expenses attributable to retail access customers whose ESCOs participate in the Company's POR program by estimated electric supply costs to be billed on ESCOs' behalf. The credit and collections expense is \$972,814 for RY1. The percentage for credit and collections to be included in the POR discount will be determined prior to the commencement of each Rate Year based on the expense levels shown above and the Company's then-current forecast of commodity costs to be billed on behalf of ESCOs through the POR program. The risk factor will be reset annually and will be equal to 20% of the uncollectible rate. Provision for the POR discount will be added to General Information Section No. 7 of the Company's electric tariff.

F. Transition Adjustment for Competitive Services

A Transition Adjustment for Competitive Services ("TACS") will be assessed on a cents per kWh basis on the bills of all customers. The TACS will be reset annually effective July 1. The TACS will be determined by dividing the sum of MFC Fixed Component Lost Revenue, Billing and Payment Processing Lost Revenue, Metering Lost Revenue, Credit and Collections Lost Revenue Associated with Retail Access and prior period reconciliation by the forecasted kWh deliveries to all customers for the twelve-month period for which the TACS is to be effective.<sup>5</sup> The TACS will be displayed as a separate line item on customers' bills.

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<sup>5</sup> Any lost revenue recovery by the Company will comply with the Commission's Statement of Policy on Unbundling and Order Directing Tariff Filings, issued August 25, 2004 in Case 00-M-0504, *Proceeding on Motion of the Commission Regarding Provider of Last Resort Responsibilities, the Role of Utilities in Competitive Energy Markets, and Fostering the Development of Retail Competitive Opportunities – Unbundling Track*.

- MFC Fixed Component Lost Revenue

MFC Fixed Component Lost Revenue will be equal to the target level of MFC costs attributable to the (a) commodity procurement, information resources, education and outreach and purchased power working capital; and (b) credit and collections portions of the MFC ("MFC Fixed Components") minus revenues received through the MFC Fixed Components.

- Billing and Payment Processing Lost Revenue

Billing and Payment Processing Lost Revenue will be equal to the total of billing and payment processing charges avoided by retail access customers less billing service charges assessed on ESCOs participating in the Company's Electric Retail Access Program and electing the Utility Single Bill Option, less the Company's avoided costs associated with ESCOs participating in the Company's Electric Retail Access Program and electing the ESCO Single Bill Option.

- Metering Lost Revenue

Metering lost revenue will be equal to the total of metering service charges (i.e., the total of meter ownership charges, meter service provider charges, and meter data service provider charges), avoided by customers taking competitive metering services, less the Company's avoided costs associated with customers taking competitive metering services.

- Credit and Collections Lost Revenue Associated with Retail Access

Credit and Collections Lost Revenue Associated with Retail Access will be equal to the target level of credit and collections costs reflected in the POR discount rate minus revenues received through the credit and collections component of the POR discount.

- Prior Period Reconciliation

The prior period reconciliation represents the difference between the amount to be recovered through the TACS and the actual amount recovered through the TACS. Any under-recovery or over-recovery resulting from such reconciliation, plus interest (calculated at the Other Customer Capital Rate), will be included in the subsequent year's TACS.

The amount to be recovered from or credited to customers through the TACS will be equal to the sum of the MFC Fixed Component Lost Revenue, Billing and Payment Processing Lost Revenue, Metering Lost Revenue, Credit and Collections Lost Revenue Associated with Retail Access, and the Prior Period Reconciliation. Half of the amount to be recovered from or credited to customers through the TACS will be assigned to Full Service Customers; the balance will be assigned to both Full Service Customers and Retail Access Customers. The amounts to be collected from or credited to customers will be divided by the estimated total annual kWh deliveries, to which the TACS will be applied, to determine the per kWh TACS, expressed to the nearest 0.001 cent per kWh. If the above calculation results in a TACS of less than 0.001 cent per kWh, the total amount to be recovered from or refunded to customers will be deferred, with interest, for later recovery or refund through application to customers' bills in a subsequently determined TACS.

Each TACS will be in effect for a twelve-month period; provided, however, that the Company may adjust the TACS for the remaining months of a twelve-month period on not less than fifteen days' notice if the total deferred debit or credit amount exceeds \$1 million. The first annual period will commence July 1, 2009, based on a calculation of TACS charges/credits for the twelve months ending June 30, 2009.

4. Service Fees

A. Reconnection Charges

The Company's reconnection charges, currently \$9.00 during normal business hours (i.e., 8:00 am to 4:00 pm, Monday through Friday, excluding holidays) and \$21.00 when the customer requests a reconnection at a time other than normal business hours, will be revised as follows.

For reconnections at the customer's meter, the reconnection charge will be \$27.00 during normal business hours and \$41.00 during other than normal business hours.

For reconnections at the street, the reconnection charge will be \$169.00 during normal business hours and \$253.00 during other than normal business hours. Reconnection charges that would be applicable when service is reconnected at the street, will not be assessed on customers taking service under residential service classifications.

B. Reinspection Fees

An initial inspection for compliance with Company specifications will continue to be performed at no cost to the applicant. A reinspection fee will apply if, due to violation(s) of Company or applicable code requirements, the Company is unable to approve the electric service and must return at a later date. Reinspection fees will be set as follows:

- Installations at less than 600 Volts - \$51.00; and
- Installations at 600 Volts or Greater - \$120.00.

Payment of the reinspection fee must be made prior to the Company's reinspection of the service.

C. Collections Charge

If, after notice of discontinuance of service for non-payment, a customer has failed to pay the amount due within the time specified in the notice and a Company employee visits the customer's premises to collect payment or disconnect service, a \$27.00 collection charge will be

assessed. The collection charge is not applicable to customers taking service under residential service classifications.

D. Charge to Suspend Service at Request of an ESCO

The Company's charge to suspend service at the request of an ESCO, currently \$19.00, will be increased to \$27.00.

E. Charge to Calculate a Bundled Bill

The Company's Charge to Calculate a Bundled Bill will remain at \$3.75 for each residential account for which an ESCO requests the Company to perform the bill calculation.

5. Energy Cost Adjustment

The provision for recovery of above-market costs associated with non-utility generators ("NUGs") will be removed from the ECA. All costs associated with power purchases from NUGs will be recovered through the MSC. A provision for recovery of NUG buyout costs will be added to the ECA to recover costs associated with the buyout of the Company's last significant above-market NUG contract, as approved by the Commission in Case No. 06-M-0002. The Company will file a revised ECA statement which removes recovery of the Middletown Tap from the ECA.

The Company also will remove the load pocket cost recovery provision from the ECA. An amount of \$1,620,000 representing the revenue requirement associated with the Middletown Tap, a system improvement that eliminated the Company's Western Load Pocket, will be rolled into base delivery rates.

6. Other Tariff Changes

A. Competitive Transition Charge

The competitive transition charge will be removed from the Company's electric tariff.

B. Budget Billing Program

The Company's budget billing tariff provision will be amended to reflect the Company's ability to establish a customer-specific Budget Year beginning with the billing month in which the customer initially enrolls in budget billing.

C. Lighting Service Classifications

The Company's lighting service classifications, SC4 and SC16 will be amended as follows:

- SC4 will be amended to specify that final approval of light fixture locations is at the Company's sole discretion.
- SC4 and SC16 will be amended to eliminate references to laminated wood and aluminum poles for use on underground electric systems.
- SC4 and SC16 will be amended to eliminate mercury vapor luminaires from the lists of available luminaires. This is necessary due to a requirement of the Energy Policy Act of 2005. Although mercury vapor luminaires will no longer be installed, existing installations will be grandfathered until such time that a luminaire fails and must then be replaced with a then-currently available luminaire.
- The energy only service provision under SC16 will be amended to clarify that the provision of unmetered service is not at the customer's sole option, but that the customer may request unmetered service for installations controlled by devices of a type approved by the Company. A statement also will be added indicating the Company's right at any time to meter service previously supplied on an unmetered basis.

D. Definitions

The definitions “Full Service Customer” and “Retail Access Customer” will be added to General Information Section No. 2 of the Company’s electric tariff.

7. Bill Format

The Company will implement the bill format provided in Appendix D. The Company will place on the Company’s website information relating to the most recent “price to compare”, as well as information on how the current “price to compare” can be obtained. The Company also will include such information on customers’ bills on a quarterly basis commencing in January 2009. In addition, the Company agrees to work with Staff’s Bill Format Team on further revisions after the initial migration to the new bill format. In particular, the Company agrees to work with Staff’s Bill Format Team to explore the appropriateness of adjusting the Government Surcharges labels. The agreed-upon discussion will commence within 60 days of the date of the Commission’s issuance of an Order establishing the terms of a three-year rate plan. The Company agrees to implement all agreed-upon changes by January 2009.

8. ESCO Referral Report

The Company will evaluate the feasibility of expanding its existing ESCO referral program so as to include new customers who contact the Company for service. The Company will file a report evaluating the disadvantages and advantages of such expansion with the parties in this proceeding, within six months of the date of the Commission's order adopting the terms of the Proposal. This report will identify any specific issues, including the Company's recovery of associated incremental projected costs, which will need to be resolved in order to implement such an expansion.

The results of any Commission order regarding the status, structure, operation or rules concerning ESCO referral programs, as applicable, will be applied prospectively to the

Company's PowerSwitch program; provided, however, that unless the Commission order expressly provides otherwise, the Company will not be required to make any change to its PowerSwitch program that would cause the Company to incur any additional incremental costs unless those costs are recoverable from the ESCOs or may be deferred to the Company's next base rate proceeding.

9. Market Supply Charge

Within 90 days of the date of the Commission's order adopting the terms of the Proposal, the Company will file a study with Staff evaluating the advantages and disadvantages of revising its MSC so that it reflects the actual NYISO day-ahead market prices that were in effect during each customer's billing period ("Revised MSC"). This study will identify any specific issues, including the Company's recovery of associated incremental projected costs, which will need to be resolved in order to implement a Revised MSC, as well as a proposed schedule for implementing a Revised MSC.

10. Revenue Decoupling Mechanism ("RDM")

The Company will implement an RDM, as set forth in Appendix E, effective July 1, 2008. The RDM would continue thereafter until modified by the Commission.

11. Earnings Sharing

Following each of RYs 1, 2, and 3, the Company will compute its electric rate of return on common equity capital for the preceding Rate Year. The Company will provide Staff the computations of earnings by no later than September 1 after the end of each Rate Year covered by the Electric Rate Plan.

On an annual basis (i.e., RY1, RY2, and RY3), the Company will defer any earnings (as adjusted as set forth below) in excess of 10.2% return on common equity capital ("Earnings

Sharing Threshold”)<sup>6</sup>. Earnings sharing between the Company and its customers will be calculated on a cumulative basis for Rate Years 1, 2, and 3. If the level of earned common equity return during Rate Years 1, 2, and 3 exceeds 10.2%, calculated as set forth below, the amount in excess of 10.2% will be deemed “shared earnings” for the purposes of the Proposal, and one-half of the revenue requirement of any shared earnings between 10.2% and 11.2% will be allocated for the benefit of customers and the remaining one-half of the revenue requirement of any shared earnings will be allocated to the Company; 75% of the revenue requirement of any shared earnings in excess of 11.2% will be allocated for the benefit of customers and the remaining 25% of the revenue requirement of any shared earnings will be allocated to the Company.

The customers’ allocated share of deferred shared earnings will be applied to reduce deferred pension and/or OPEB costs, and/or offset against other deferred debits on the Company’s books, including the costs and incentives relating to any energy efficiency plan implemented by the Company, as directed by the Commission. The Company’s allocated share of deferred shared earnings will be subject to the provisions of Section 12 K, Limitations on Deferrals, set forth below.

Orange and Rockland will not be entitled by this provision to recover from customers any amounts by which aggregate earnings in RY1, RY2, and RY3, as adjusted, fall below 10.2%.

For purposes of determining whether the Company has earned in excess of the Earnings Sharing Threshold, the calculation of the actual return on common equity capital allocated to New York jurisdictional electric utility operations will be on a per books basis, adjusted as follows:

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<sup>6</sup> In calculating the total shared earnings, if in any Rate Year the level of earned common equity return is less than the Earnings Sharing Threshold, any such shortfall will be deducted from the shared earnings earned by the Company in other Rate Years.

- a. Officer restricted stock payments, any earned reward or penalty related to property tax refunds, or other incentive mechanisms made effective during the term of the Electric Rate Plan pursuant to an Order of the Commission, will be excluded from the calculation.
- b. Such earnings computations will reflect the lesser of (i) an equity ratio equal to 50.0 percent or (ii) the Company's actual average common equity ratio to the extent that it is less than 50.0 percent of its ratemaking capital structure. The actual common equity ratio will exclude all components related to "other comprehensive income" that may be required by generally accepted accounting principles ("GAAP"); such charges are recognized for financial accounting reporting purposes but are not recognized or realized for ratemaking purposes.

## 12. Reconciliations

The Company will reconcile the following costs to the levels provided in rates, as set forth in Appendices F, G and J. The reconciliations in RY1, RY2, and RY3 will be deferred over the three-year period of the Electric Rate Plan.<sup>7</sup>

### A. Transmission and Distribution Capital Expenditures

During the term of the Electric Rate Plan, average electric transmission and distribution net plant balances will be reconciled to capital targets as set forth in Appendix F to this Proposal. If at the end of the three year rate plan such average net plant balances are less than the cumulative target amounts identified in Appendix F ("Capital Target"), the Company will defer the revenue requirement impact of any shortfall below the target levels for the benefit of

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<sup>7</sup> The following items will continued to be deferred after the three-year term of the Proposal: environmental remediation, pension/OPEBs, research and development, low-income program, asbestos workers' compensation reserve, and deferred income tax 263A and bonus depreciation.

customers. The Signatory Parties agree that Orange and Rockland will have the flexibility during the term of the Electric Rate Plan to substitute, change, and modify the capital projects identified in Appendix F.

The Company will provide Staff and other interested parties with detailed quarterly and annual reports on electric transmission and distribution related capital expenditures. These reports will be in the form set forth in Appendix H.

B. Environmental Remediation

If the level of actual expenditures for site investigation and remediation (“SIR”),<sup>8</sup> including expenditures associated with former manufactured gas plant (“MGP”) sites, Superfund sites, and the West Nyack site, allocated to electric operations varies in any Rate Year from the levels provided in rates, which are set forth in Appendix I, such variation will be deferred and recovered from or credited to customers. Deferred environmental remediation balances varying from the level reflected in rate base will accrue a carrying cost at the pre-tax rate of return, as set forth in Appendix I. The deferred balances will be reduced by accruals, insurance recoveries, associated reserves and deferred taxes, and other offsets, if any, obtained by the Company. Orange and Rockland will continue to allocate SIR costs between the Company’s electric and gas operations on a 70.75%/29.25% basis.

Within 90 days of the date of the Commission’s order adopting the terms of the Proposal, the Company will file a report that will (a) describe the status of each MGP site as of July 1, 2008, (b) outline the projected expenditures at each MGP site that are reflected in the revenue

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<sup>8</sup> SIR costs are the costs Orange and Rockland incurs to investigate or remediate the sites, or pay damages (including natural resource damages, with respect to industrial and hazardous waste or contamination spills, discharges, and emissions). The Signatory Parties reserve the right to argue for or against the Company’s recovery of such damages in any future rate cases or other proceedings involving the Company. SIR costs are net of insurance reimbursement (if any); provided, however, that while the Company will pursue insurance reimbursement, when available and appropriate, nothing in this Proposal will require the Company to initiate or pursue litigation for purposes of obtaining insurance reimbursement.

requirement for RY1, RY2, and RY3, (c) summarize the investigation and/or remediation activities to be conducted at each MGP site during the following calendar year (i.e., 2009).

By no later than March 31 after the end of each calendar year covered by the Electric Rate Plan, the Company will provide Staff and other interested parties with a report regarding SIR expenditures during the previous calendar year (“SIR Report”). The SIR Report will (a) describe the investigation and remediation activities, and itemize the actual expenses recorded, that occurred at each MGP site during the previous calendar year, and (b) summarize the investigation and/or remediation activities to be conducted at each MGP site during the following calendar year. After the filing of the SIR Report, the Company will respond to interested parties’ reasonable questions regarding the SIR Report, as well as the bidding processes and management practices relating to the Company’s investigation and remediation activities. The Company will convene a meeting to discuss the SIR Report, if Staff deems such a meeting necessary.

C. Property Taxes

If the level of actual expenses recorded for property taxes, excluding the effect of property tax refunds, varies in any Rate Year from the levels provided in rates, which are set forth in Appendix G, 100% of any variations due to tax rate changes will be deferred and recovered from or credited to customers, while 86% of any variation due to assessment changes will be deferred and recovered from or credited to customers. The Company will accrue interest monthly on such deferred amounts at the Other Customer Capital rate until such amounts are fully reflected in rates. Property tax refunds (allocated to electric operations) resulting from the Company’s efforts, including credits against future tax payments (intended to return or offset past overcharges or payments determined by the taxing authority to have been in excess of the

property tax liability appropriate for Orange and Rockland),<sup>9</sup> will be deferred for future disposition except for an amount equal to fourteen percent of the refund<sup>10</sup> which will be retained by the Company. The fourteen percent retention will apply to all such property tax refunds and/or credits (allocated to electric operations) against future tax payments actually achieved by Orange and Rockland during the term of the Electric Rate Plan.<sup>11</sup>

D. Pensions/OPEBs

Pursuant to the Commission's Pension Policy Statement, the Company will reconcile its actual pensions/OPEB expenses and tax benefits related to the Medicare subsidies to the level allowed in rates as set forth in Appendix G.

E. Research & Development Costs

Pursuant to the Commission's 1978 Technical Release, the Company will reconcile its actual research and development ("R&D") expenses to the level allowed in rates as set forth in Appendix G.

F. Low-Income Program

The Company will reconcile actual payments (credits) to low-income customers to the level allowed in rates as set forth in Appendix G.

G. Asbestos Workers' Compensation Reserve

If the level of actual asbestos claim payments to the Company's former power plant employees varies on a cumulative basis over the term of the Electric Rate Plan from the levels

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<sup>9</sup> Outside legal and other incremental costs incurred by the Company in pursuing such property tax refunds will first be deducted from any such refunds and/or credits before any allocation is made to the Company and its customers.

<sup>10</sup> The Company is not relieved of the requirements of 16 NYCRR Part 89 and Public Service Law § 113(2) with respect to any refunds it receives.

<sup>11</sup> However, the Company will retain 14% of any property tax refunds, finalized during the term of the Electric Rate Plan, but actually received after the end of the term of the Electric Rate Plan (e.g., August 1, 2011).

provided in rates, which are set forth in Appendix G, such variation will be deferred and recovered from or credited to customers.

H. Contractor Tree Trimming

The Company will defer for the benefit of customers any cumulative shortfall over the term of the Electric Rate Plan between actual expenditures for the Company's transmission and distribution tree trimming program, including the danger tree programs, and the levels provided in rates, which are set forth in Appendix G.

I. Deferred Income Taxes – 263A and Bonus Depreciation

The Company and the Internal Revenue Service have an open audit issue concerning the Section 263A tax deduction claimed by Orange and Rockland beginning with tax returns filed for 2002 and later years. At issue is the appropriate method(s) to be applied to different classes of plant in order to calculate the Section 263A deduction. Resolution of this matter is pending for all tax years and may result in a disallowance of a portion of the tax deduction claimed by the Company. The Proposal establishes a 263A deferred tax balance that reflects the anticipated outcome of this dispute.

The Federal Economic Stimulus Act of 2008 will allow the Company to depreciate plant assets that are started and completed during the 2008 tax year using "bonus depreciation rates" (i.e., 50% of the eligible plant balances may be depreciated within the current tax year). The Company has projected that the net average rate base deduction related to this tax benefit would be \$5.2 million in RY1, \$5.6 million in RY2, and \$5.1 million in RY3.

The Company will defer interest at a rate equivalent to the pre-tax rate of return of 10.69 percent on any difference between the actual deferred Section 263A and tax depreciation (ADR/ACRS/MACRS), including bonus depreciation, deferred tax benefits reflected in rate base

(see Appendix G) and the actual tax benefits that result from the Section 263A and ADR/ACRS/MACRS deduction allowed by the Internal Revenue Service. The final Section 263A deduction reflected in rate base will recognize any related partial offset (i.e., higher/lower tax deduction), impacting the ADR/ACRS/MACRS rate base balances.<sup>12</sup>

J. Additional Reconciliation/Deferral Provisions

In addition to the foregoing reconciliation provisions, all other applicable existing reconciliations and/or deferral accounting will continue in effect unless modified or discontinued by the Commission, including but not limited to, FAS 109 taxes, MTA taxes, vacation pay accrual pursuant to FAS 71, carrying charges for the MSC, ECA, and system benefits charge (“SBC”) mechanisms. The Company will defer any differences between the Company’s actual revenues and authorized revenues, as determined by the Company’s RDM and as discussed in Section 10 of the Proposal. In addition, the Company will defer any carrying costs for projects approved or required by the Commission that are incremental to the Company’s capital additions, such as Advanced Metering Infrastructure projects, and participation in regulated backstop solutions or generation as the provider of last resort.

Appendix I sets forth the annual amortization of deferred regulatory assets and liabilities included in the annual revenue requirement.

K. Limitations on Deferrals

When calculating the level of earned common equity return for electric that may be subject to sharing pursuant to Section 11 of the Proposal, the Company will make the following adjustments if its earnings exceed the Earnings Sharing Threshold:

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<sup>12</sup> The ADR/ACRS/MACRS rate base balances reflected in rates may change if a higher or lower level of costs is capitalized for tax purposes, as a result of a change in the level of costs deducted under Section 263A.

- a. For earnings on common equity above 10.2%, the Company will apply up to 50% of its share of any such earnings to reduce net expenses (debits) deferred for later recovery pursuant to this Section,<sup>13</sup> provided that such reduction in deferrals will not cause the resulting earnings to decrease below a 10.2% return on common equity.
- b. For purposes of (a), above, the analysis will be performed on a single Rate Year basis. For example, costs deferred in RY1 will not be considered in the analysis for RY2.
- c. This deferral limitation will apply to net debit deferrals for pensions/OPEBs (excluding the phase in described in Section 1 of the Proposal), property taxes, R&D costs and any future applicable legislative, regulatory and related actions pursuant to Section 25 of the Proposal.

13. Major Storm Costs

The Company's annual revenue requirements provide funding for incremental storm costs of \$2.2, \$2.2 \$2.3, respectively, in RY1, RY2, and RY3, incurred for major storms.<sup>14</sup> Cumulatively, the amounts provided for incremental storm costs in the Electric Rate Plan total \$6.7 million. To the extent that over the term of the Electric Rate Plan, the Company has incurred cumulative incremental storm damage costs, relating to major storms, in excess of \$7.2 million, the Company will defer costs in excess of the \$7.2 million. To the extent that over the term of the Electric Rate Plan, the Company has incurred cumulative incremental storm damage

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<sup>13</sup> For example, if the Company earns \$100 over the 10.2% threshold, \$50 will be allocated to customers, \$25 will be applied against the Company's deferrals, and \$25 will be allocated to the Company's shareholders.

<sup>14</sup> A "major storm" is defined as a period of adverse weather during which service interruptions affect at least 10% of the Company's customers within an operating area and/or results in customers being without electric service for durations of at least 24 hours and exceeds \$200,000 in cost.

costs, relating to major storms, less than \$6.2 million, the Company will defer any variation less than \$6.2 for the benefit of customers. All major storm costs will be subject to Staff review.

14. Inflation Adjustment

If general inflation rates exceed 4.0% (“Inflation Threshold”) on average over the course of the Electric Rate Plan and the Company’s average electric earnings<sup>15</sup> are less than the authorized return of 9.4% over the three-year term of the Electric Rate Plan, the Company will be allowed to defer inflationary increases above the Inflation Threshold applicable to the expenses set forth in Appendix J (“Inflation Pool”). Although the above-threshold calculation will be performed at the end of each rate year, deferral will be triggered on a cumulative basis over the three-year term of the Electric Rate Plan. That is, actual inflation must exceed 12% over the three-year period covered by the Electric Rate Plan.

The deferral will be based on the lower of the following:

- (a) Inflationary increases above the Inflation Threshold, determined using Price Index numbers for Gross Domestic Product (“GDP”) published by the U.S. Department of Commerce, Bureau of Economic Analysis (“BEA”),<sup>16</sup> applicable to the Inflation Pool; or
- (b) Actual costs incurred by the Company for the expenses, contained in the Inflation Pool, above the Inflation Threshold.

For example, if during RY1, the inflation rate according to the Blue Chip Economic Indicators is 6%, as compared to the actual 5% increase in the expenses contained in the Inflation Pool, the deferral would be equal to 1% (i.e., 5% less the 4% threshold) of the Inflation Pool,

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<sup>15</sup> Actual return on common equity capital allocated to the Company’s New York jurisdictional electric operations, calculated as set forth in Section 11 of the Proposal.

<sup>16</sup> The estimate of inflation that occurred during the three rate years (ending June 30, 2011) will be calculated using price index numbers available from BEA as of August 1, 2011. Likewise, all individual rate year inflation calculations will be based on available data as of August 1<sup>st</sup> in the appropriate year.

provided that the Company's earned common equity, as calculated pursuant to Section 11 of the Proposal was less than 9.4%.

15. Pollution Control Debt

The Company has two issues of tax exempt debt (i.e., Series 1994A and Series 1995A) ("Pollution Control Debt") that were used to finance pollution control equipment located at the Lovett Generating Station ("Lovett"). In addition, in 1994 the Company entered into a swap agreement to convert the floating interest rate of the Series 1994A to a fixed rate. Refunding of the Pollution Control Debt, or temporary funding through the use of a bank credit facility, may become necessary or advisable as a result of a Rating Agency downgrade of bonds, insurer, counterparty, or letter of credit provider or by Mirant's retirement of Lovett Plant. In the event the Pollution Control Debt is refunded prior to June 30, 2011, the incremental costs associated with the retirement and refinancing of the Pollution Control Debt will be deferred for future recovery. The settlement of swaps will be trued-up and amortized through the normal maturity date of the applicable bonds (i.e., 2014). In addition, the Company will reconcile its actual interest and swap costs related to the Pollution Control Debt (including the use of a bank credit facility) to the levels reflected in rates as set forth in Appendix K.

16. Lovett Generating Facility Closure

Mirant Lovett, LLC ("Mirant"), the owner and operator of the Lovett Generating Facility ("Lovett") has informed the Company and the Commission that it intends to discontinue operation of Lovett, and that it also may demolish Lovett. In the event that Mirant demolishes all or part of Lovett, the Company will incur costs to relocate its facilities that currently are located at Lovett. To the extent the Company incurs incremental costs associated with the relocation of its facilities located at Lovett, and such costs are not collected from Mirant, the Company will be allowed to defer for future recovery, subject to Staff review, incremental

capital expenditures, in an amount not to exceed \$1.85 million, and incremental operations and maintenance expenses, in an amount not to exceed \$185,000. The Company will apply the full return to these deferred amounts. The Company will defer for future recovery, without carrying charges until the Company's next base rate case, any incremental capital expenditures exceeding \$1.85 million. The Company will identify and track, and after the relocation of the Company's facilities is complete, will file a report with Staff that details, the incremental capital expenditures and operations and maintenance expenses for which the Company seeks deferral.

17. Direct Labor/Wages

The Company will phase in the additional employees over three years as described in Appendix L.

18. Common Plant Allocation

During the term of the Electric Rate Plan, common plant costs will be allocated according to the percentages approved by the Commission in Case 99-G-1695 (i.e., 29.25% gas operations, 70.75% electric operations).

19. Customer Service and Reliability Performance Measurements

The Signatory Parties agree that Electric Customer Service and Reliability Performance Mechanism set forth in Appendix M of the Proposal will be in effect and will not be modified during the term of the Electric Rate Plan. At the expiration of the term of the Electric Rate Plan, such Electric Customer Service and Reliability Performance Mechanism will continue until modified or discontinued by the Commission. Any Signatory Party can petition the Commission to modify or discontinue all or any portion of the Electric Customer Service and Reliability Performance Mechanism, so long as any such modification or discontinuance would become effective after the term of the Electric Rate Plan has expired. The Electric Customer Service and Reliability Performance Mechanism will be measured on a calendar year basis.

Accordingly, the results of the performance measurements, as measured during the calendar years 2008, 2009, and 2010, respectively, will be applied to Rate Years 1, 2, and 3, respectively.

The Company will file an annual report by March 1, providing the results of the performance measurements for the preceding year and the Company's calculation of any applicable credits due to customers under the incentive plan.

20. Low-Income Program

As authorized by the Commission in its October 18, 2007 order in Case No. 06-E-1433, the Company modified its electric low income program to (a) increase, from \$5.00 to \$10.00, the monthly bill credit for electric space heating customers identified as Home Energy Assistance Program ("HEAP") recipients; and (b) expand, from five months per year to twelve months per year, the applicability of the \$5.00 monthly bill credit for non-space heating customers who are identified as receiving grants under HEAP. These changes were implemented on December 1, 2007.

The annual revenue requirements include funding for the low-income program as shown on Appendix G.

21. Energy Efficiency Program

The Company will submit an Energy Efficiency Plan, pursuant to Commission order in Case 06-E-1433, in June 2008 based on the results of the Market Potential Study currently being performed. The final outcome of the plan will be determined in the Energy Efficiency Portfolio Standard proceeding (Case 07-M-0548). Concurrent with the Rate Year 1 delivery rate changes, the Company will begin collecting, through a non-bypassable surcharge, an amount of \$4 million per year to begin funding its Energy Efficiency Plan.

22. Depreciation

The average service lives, net salvage factors and life tables used in calculating the depreciation reserve and in establishing the revenue requirement are set forth in Appendix N. An excess reserve of the electric portion of common plant (i.e., \$11.4 million) will be amortized over a five-year period beginning with RY1.

23. Interest

The Company will record on its books and records of accounts various credits and debits that ultimately will be reflected in the rates to be charges to customers. Unless otherwise specified in the Proposal or by Commission Order, the Company will accrue interest on all such book amounts, net of federal and state income taxes, at the unadjusted customer deposit rate published by the Commission annually and applicable on a calendar year basis.

24. Other Allowed Rate Changes

Notwithstanding the other provisions of the Proposal, the Signatory Parties agree that the following rate changes will be permitted<sup>17</sup> during the Electric Rate Plan, provided that Commission approval is granted prior to the implementation of such changes:

- a. A minor change in any individual base rate or rates whose revenue effect is de minimis or essentially offset by associated changes in other base rates, terms or conditions of service -- for example, an increase in a specific base rate charge in one service classification that is offset by a decrease in another base rate charge in the same or in other service classifications. It is understood that, over time, such minor changes are routinely made and that they may continue to be made during the term of the Electric Rate Plan provided they will not result in a change (other

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<sup>17</sup> The Signatory Parties agree that any Signatory Party will be allowed to take any position it may wish regarding any such proposed rate change.

than a de minimis change) in the revenues that Orange and Rockland's base electric rates are designed to produce overall before such changes.

- b. If a circumstance occurs which, in the judgment of the Commission, so threatens the Company's economic viability or ability to maintain safe and adequate service as to warrant an exception to this undertaking, Orange and Rockland will be permitted to file for an increase in base electric rates at any time under such circumstances.
- c. The Signatory Parties recognize that the Commission reserves the authority to act on the level of Orange and Rockland's base electric rates in the event of unforeseen circumstances that, in the Commission's opinion, have such a substantial impact on the range of earnings levels or equity costs envisioned by the Electric Rate Plan as to render Orange and Rockland's base electric rates unreasonable or insufficient for the provision of safe and adequate service at just and reasonable rates.
- d. Nothing herein will preclude Orange and Rockland from petitioning the Commission for approval of new services or of rate design or revenue allocation changes on an overall revenue-neutral basis, including, but not limited to, the implementation of new service classifications and/or cancellation of existing service classifications.

25. Legislative, Regulatory and Related Action

- a. If the federal government, State of New York, and/or other local governments make changes in their tax laws or regulations (other than local property taxes, which will be reconciled in accordance with Section 12 C of the Proposal) and if

the Commission does not permit the disposition, through a surcharge or credit, of any such tax law changes, including any new, additional, repealed or reduced federal, state, or local government taxes, fees or levies, Orange and Rockland will defer the full change in expense and reflect such deferral as credits or debits to customers in the next base rate change, subject to any final Commission determination in a generic proceeding prescribing utility implementation of a specific tax law enactment, including Commission determination of any Company-specific compliance filing made in connection therewith.<sup>18</sup>

- b. If amendments or changes to federal and/or state tax laws, including interpretations of the such tax laws by regulations, court decisions or otherwise, not covered by the preceding subparagraph (a), cause Orange and Rockland's income tax liability allocable to electric operations during the period of the Electric Rate Plan to be changed from the tax liability calculated in accordance with currently effective tax laws, Orange and Rockland will defer the full change in tax expense for rate recovery or refund in a manner to be determined by the Commission.
- c. If any law, rule, regulation, order, or other requirement or interpretation (or any repeal or amendment of an existing rule, regulation, order or other requirement) mandated by the state, local or federal government or courts, results in a change in Orange and Rockland's annual operating expenses or capital costs not anticipated in the forecasts on which the rates in the Electric Rate Plan are based in an annual

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<sup>18</sup> The Company reserves all of its administrative and judicial rights in connection with such generic proceeding(s).

amount of \$0.7 million or more per occurrence<sup>19</sup>, Orange and Rockland will defer the full effect of any such cost increase, with any such deferrals authorized or required to be reflected in the next base rate change, or in a manner to be determined by the Commission. In the case of any such requirements imposed by the Commission itself, the Company will defer the full revenue requirement effect of the cost increase or decrease.

- d. Orange and Rockland will retain the right to petition the Commission for authorization to defer extraordinary costs not otherwise addressed in this Proposal.
- e. Except as provided pursuant to Section 24 of the Proposal, Orange and Rockland will not file for a base rate change to become effective before June 30, 2011.

26. Withdrawal of Litigation

Upon the Commission's issuance of an Order establishing rates and terms of a three-year rate plan, consistent with the terms of this Joint Proposal, the Company will promptly withdraw all pending court challenges that the Company has filed to the Commission's actions and orders in Case 06-E-1433.

27. Trade Secret Protections

Nothing in this document prevents the Company from seeking trade secret protection under 16 NYCRR Part 6 for all or any part(s) of any document or report filed (or submitted to

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<sup>19</sup> For purposes of this Proposal, the \$0.7 million threshold will be applied on a case-by-case basis and not to the aggregate impact of changes of two or more laws, rules, etc.; provided, however, that these thresholds will be applied on a Rate Year basis to the incremental aggregate impact of all contemporaneous changes (i.e., changes made as a package even if they occur or are implemented over a period of months) affecting a particular subject area and not to the individual provisions of the new law, rule, etc.

Staff) in accordance with the Electric Rate Plan, or prohibits or restricts any other Signatory Party from challenging any such request.

#### **IV. GENERAL PROVISIONS**

##### 28. Continuation of Provisions

The programs and requirements adopted herein, that are not designated to expire by their own terms, will remain in effect until changed by the Commission. At the end of RY3, targets and goals set forth in the Proposal will continue at their RY3 levels unless modified by the Commission. The amortization of expiring credits/debits will cease at the end of RY3.

##### 29. Provisions Not Separable

The Signatory Parties intend the Proposal to be a complete resolution of all the issues in Case 07-E-0949. It is understood that each provision of the Electric Rate Plan set forth in the Proposal is in consideration and support of all the other provisions, and expressly conditioned upon their acceptance by the Commission. If the Commission's Order establishing rates and terms of a three-year rate plan materially alters the terms of the Electric Rate Plan set forth in the Proposal, then the Signatory Parties will be free to pursue their respective positions in this proceeding without prejudice.

##### 30. Provisions Not Precedent

The terms and provisions of the Proposal apply solely to, and are binding only in the context of, the purposes and results of the Proposal. None of the terms and provisions of the Proposal and none of the positions taken herein by any party may be cited or relied upon by any other party in any fashion as precedent in any other proceeding before the Commission, or before any other regulatory agency or any court of law for any purpose other than the furtherance of the purposes, results, and disposition of matters governed by the Proposal.

31. Dispute Resolution

In the event of any disagreement over the interpretation of provisions in the Proposal or the implementation of any of the provisions of the Electric Rate Plan, which cannot be resolved informally by the Signatory Parties, such disagreement will be resolved in the following manner: the Signatory Parties will promptly convene a conference and in good faith will attempt to resolve such disagreement. If any such disagreement cannot be resolved by the Signatory Parties within 30 days, any Signatory Party may petition the Commission for relief on a disputed matter.

32. Submission of Proposal

The Signatory Parties agree to submit the Proposal to the Commission and to individually support and request adoption by the Commission of the Electric Rate Plan set forth in the Proposal in its entirety as set forth herein.

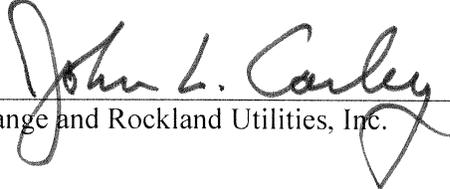
33. Further Assurances

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

34. Execution

The Proposal is being executed in counterpart originals, and will be binding on each Signatory Party when the counterparts have been executed.

IN WITNESS WHEREOF, the Signatory Parties hereto have affixed their signatures below as evidence of their agreement to be bound by the provisions of the Proposal on the day and year first written above.

  
Orange and Rockland Utilities, Inc.

(Signatures continued on following page)

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Staff of the Department of Public Service

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Town of Ramapo

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Small Customer Marketers Coalition

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Retail Energy Supply Association