

**STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE
THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350**

Internet Address: <http://www.dps.state.ny.us>

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February 13, 2009

VIA E-Mail and Hand Delivery

Hon. Elizabeth Liebschutz and
Hon. William Bouteiller
Administrative Law Judges
Public Service Commission
3 Empire State Plaza
Albany, New York 12233

Re: Case 09-E-0082 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of New York State Electric & Gas Corporation for Electric Service;

Case 09-G-0083 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of New York State Electric & Gas Corporation for Gas Service;

Case 09-E-0084- Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Rochester Gas and Electric Corporation for Electric Service and

Case 09-G-0085 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Rochester Gas and Electric Corporation for Gas Service.

Dear Judge Liebschutz and Bouteiller,

Attached please find the Department of Public Service Staff's Motion to Dismiss, with testimony and exhibits, in the above-captioned proceedings. The Motion is being served on active parties electronically per the discussion at the February 11, 2009 pre-hearing conference.

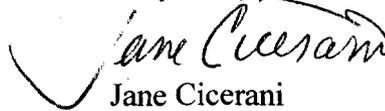
As we stated at that pre-hearing conference, Staff believes the following schedule adheres to the Commission's Rules of Procedure and expedites the hearing of our motion to best effectuate the Commission's prohibition on NYSEG and RG&E's filing for a

rate increase before September 16, 2009. It is:

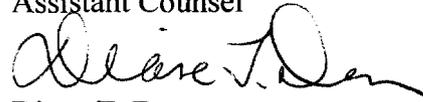
February 13, 2009: Staff files Motion to Dismiss;
February 23, 2009: Responses to DPS Staff Motion from the Companies and
Intervenors;
March 3, 2009: Evidentiary Hearings on Motion to Dismiss;
March 13, 2009: Briefs due from all parties.

At the February 11, 2009 pre-hearing conference, the Companies suggested that briefs may not be necessary. While Staff is open to that possibility, we believe time should remain in the schedule to allow for briefs if the parties do find them necessary.

Very Truly Yours,



Jane Cicerani
Assistant Counsel



Diane T. Dean
Assistant Counsel

Enclosures

cc: Jaclyn A. Brillling, Secretary- 5 copies
Active parties via e-mail