

ATTACHMENT 1

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The Joint Petitioners offer all of the commitments and conditions listed below for the Commission to include in its approval of the Proposed Transaction in order to ensure that the public interest standard is fully satisfied. These commitments and conditions have been modified (as shown in italics below) since the Joint Petitioners' Initial Brief to reflect some of the other parties' requests and recommendations that Joint Petitioners can accept:

Rate Reductions

1. **Rate Adjustments** - The Joint Petitioners commit to \$201.642 million in one-time permanent rate adjustments, which translate into approximately \$54.8 million dollars in immediate, annual delivery rate reductions for customers (Exh. 50).

Vertical Market Power

2. **Generation Divestiture** - The Joint Petitioners commit to divest all of the fossil generation facilities owned by Energy East in New York State, thereby eliminating any potential market power issues (*Id.*).
3. **Divestiture Auction Proceeds** - *The Joint Petitioners commit to share with ratepayers, in a manner and amount to be determined by the Commission, the above-book proceeds resulting from the auction of Energy East's divested fossil assets. The Commission's discretion on sharing of above-book proceeds could mean that Joint Petitioners would retain as low as 10% of net auction proceeds as a sales incentive, with the remaining proceeds being returned to customers (CPB IB at 7-8).*
4. **Post Auction Collaborative** - *The Joint Petitioners commit to participate in and accept the result of a post-auction collaborative process with interested parties following the closing of the Proposed Transaction to determine how and when the net proceeds will be returned to customers (CPB IB at 8).*

Renewable, Environmental and Economic Development Commitments

5. **Renewable Commitment** - Iberdrola will support investments by its subsidiary, Iberdrola Renewables, of at least \$100 million in renewable generation resources in New York over the next three years. These commitments will bring economic development and new jobs, particularly in upstate New York (Exh. 50)
6. **City of Rochester** - The Joint Petitioners have committed to the City of Rochester to address the process of remediation of, and public access to, old facility sites and to address issues regarding above-ground wiring and street lighting (*Id.*).
7. **Economic Development Incentives** - *The Joint Petitioners commit to the continued use of economic development incentives, including the use of Flex Rate contracts, to retain and attract industry and large customers to upstate New York. The Joint Petitioners commit to directing NYSEG and RG&E to continue and, if possible, enhance these programs as part of the subsequent rate proceedings (Nucor IB at 9-10).*

8. **Economic Development Collaborative** - *The Joint Petitioners commit to establish a collaborative process with interested parties following closing of the Proposed Transaction to discuss possible allocations to customers of the energy component of the hydroelectric power produced by NYSEG and RG&E (Id. at 10).*

Electric Reliability

9. **Electric Cooperatives** - A task force will be formed and studies undertaken, among other things, to bring enhanced reliability benefits to three electric cooperatives and the Village of Sherburne (Exh. 50).

Acquisition Premium, Transaction Costs and Goodwill

10. **No Acquisition Premium** – Joint Petitioners will not seek to recover any acquisition premium associated with the Proposed Transaction in rates from NYSEG or RG&E ratepayers (Tr. 491-92).
11. **No Transaction Costs** – Joint Petitioners will not seek to recover any transaction costs associated with the Proposed Transaction in rates from NYSEG or RG&E ratepayers (Tr. 491).
12. **No Goodwill at NYSEG or RG&E** – Joint Petitioners will not record any Goodwill associated with the Proposed Transaction on the books of NYSEG or RG&E (Tr. 547).
13. **RGS Costs** - *The Joint Petitioners commit that they will not seek recovery of the acquisition premium or costs associated with the Energy East/RGS merger in future rate proceedings.*

Transparency and Reporting

14. **Books and Records** - The Commission will have access, in English and in New York, to (1) the books/records of NYSEG and RG&E, and (2) any books/records of Iberdrola or any Iberdrola affiliates that are related to NYSEG or RG&E. The Commission will have access, in English and in New York, to any minutes of the Iberdrola Board of Directors, and any sub-committee thereof, to the extent that such minutes discuss Energy East, NYSEG or RG&E. Iberdrola also shall translate such other documents as the Commission determines to be reasonably necessary to fulfill its statutory duties (Tr. 549).
15. **Audit Reports** - The Commission will have access, in English and in New York, to all internal and external audit reports and recommendations for NYSEG and RG&E, and for any Iberdrola affiliate with respect to the provision of goods and services for compensation to NYSEG or RG&E (*Id.*).
16. **Financial Statements** - Iberdrola's consolidated balance sheets, income statements and cash flow statements will be made available to the Commission, in English and in New York, on an annual basis and in a format that is mutually agreed to between Iberdrola and the Commission Staff. Audited financial statements will be in accordance with the International Financial Reporting Standards ("IFRS"), as issued by the International

Accounting Standards Board, consistent with Securities and Exchange Commission (“SEC”) requirements. Additionally, Iberdrola agrees to provide specific answers to particular questions raised by the Commission and its Staff with respect to IFRS (Tr. 550).

Data Security

17. **Sensitive Data Maintained in U.S.** - The Joint Petitioners commit that information about vulnerabilities in the New York electric grid and the gas pipeline network, in all media formats, shall remain within the headquarters of NYSEG and RG&E. The Joint Petitioners also commit that customer data (*e.g.*, names, addresses, telephone numbers, social security numbers, credit reports) shall remain, in all media formats, within the headquarters or customer service centers of NYSEG and RG&E (Tr. 552).

Credit Quality

18. **Credit Ratings** - Iberdrola, Energy East, NYSEG and RG&E will maintain credit ratings with at least two generally accepted ratings agencies (*e.g.*, Standard & Poor (“S&P”) and Moody’s) (Tr. 554).
19. **Reporting of Credit Events** - If there is a “Credit Event” (defined as the downgrade of Iberdrola’s, Energy East’s, NYSEG’s or RG&E’s credit rating below “BBB”/“Baa3”, or credit rating of “BBB-”/“Baa3” with a “Watch Negative”, by at least two major credit reporting agencies (*e.g.*, S&P and Moody’s)), NYSEG and RG&E will make a timely filing notifying the Commission of any such Credit Event, and subsequent filings with the Commission every three months, identifying (1) the current credit rating during such Credit Event and (2) a plan to remedy such Credit Event, until such Credit Event is eliminated (*Id.*).
20. **Ratings Agency Presentations and Reports** - Iberdrola, Energy East, NYSEG or RG&E, as applicable, will provide the Commission on a confidential basis with copies of all slide presentations to credit ratings agencies relating to Energy East, as well as all rating agency reports relating to Energy East or any Energy East subsidiaries, on an ongoing basis (*Id.*).
21. **Cost of Debt** - NYSEG and RG&E ratepayers shall not be responsible for any increase in NYSEG’s or RG&E’s cost of debt caused by Iberdrola’s financial status. For ratemaking purposes, the Commission may impute a reasonable cost of debt that is based on NYSEG’s and RG&E’s stand-alone risk profile (*Id.*).

Capital Structure / Financial Protections

22. **Minimum Common Equity Ratio** - NYSEG and RG&E will at all times maintain common equity capital at levels equal to or greater than 38% of total adjusted capital (including common equity, preferred equity, long-term debt, short term debt, capitalized leases, Current Maturities of Long-Term Debt and Current Maturities of Capitalized Long-Term Leases). Notwithstanding the foregoing, NYSEG and RG&E shall maintain the right to petition the Commission for an exception to this condition. One-time events,

such as mandated changes in accounting, that temporarily affect equity will be reported to the Commission and excluded from the common equity ratio calculation (Tr. 556).

23. **No Cross Default** - There will be no cross default provisions in any joint credit arrangements among NYSEG and RG&E, on the one hand, and Iberdrola and its affiliates, on the other hand, unless otherwise authorized by the Commission (*Id.*).
24. **Money Pool Participation** - NYSEG and RG&E may participate in Iberdrola money pools provided the other participants in such money pools are limited to regulated utility affiliates of Iberdrola in the U.S., unless otherwise authorized by the Commission. Iberdrola shall not borrow from money pools in which NYSEG and RG&E are participants (Tr. 556-57).
25. **Dividend Policy** - NYSEG and RG&E will maintain their respective dividend policies with due regard for the financial performance and needs of NYSEG and RG&E, irrespective of the financial performance and needs of Iberdrola. Iberdrola will report to the Commission in the event that the dividend payout for any year is more than 100% of income available for dividends calculated on a two-year rolling (eight calendar quarter) average basis (Tr. 557).

Affiliate Transactions

26. **Cost Allocations** - NYSEG and RG&E will continue to utilize Energy East's cost allocation methodologies and Energy East will allocate centralized costs from Iberdrola to NYSEG or RG&E only to the extent that such costs are properly chargeable to utility operations and accepted by the Commission. Costs charged by Iberdrola or its affiliates to Energy East and any of its U.S. affiliates that either directly or indirectly affect NYSEG's or RG&E's costs of service shall be based on Energy East's approved cost allocation methodology, unless otherwise permitted by the Commission (Tr. 560).
27. **Separate Accounting and Financial Statements** - NYSEG and RG&E will maintain separate and independent accounting records and financial statements from that of Iberdrola and all other affiliates (*Id.*).
28. **Asset Transfers** - NYSEG and RG&E will not transfer or sell material assets or facilities to Iberdrola or any affiliate without prior approval of the Commission. All asset sales to these entities will be on an arm's-length basis, and be subject to market vs. book value tests (*Id.*).
29. **No Lending** - NYSEG and RG&E will not loan funds to Iberdrola or any unregulated affiliate, either through a money pool or otherwise, unless otherwise authorized by the Commission (*Id.*).
30. **No Credit Support** - NYSEG and RG&E will not provide guarantees, collateral, or pledge or provide any other type of credit support for the benefit of Iberdrola or any affiliate (*Id.*).

31. ***Affiliate Transaction Rules*** - *The Joint Petitioners commit, following closing of the Proposed Transaction, to comply with the existing Affiliate Transaction Rules (sometimes referred to as a “Code of Conduct”), and will agree to substitute Iberdrola for the term “Energy East” in those Affiliate Transaction Rules.*