

**STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE**

**Case 20-G-0131 – Proceeding on Motion of the Commission in Regard to Gas
Planning Procedures**

**NATURAL RESOURCES DEFENSE COUNCIL COMMENTS
ON STAFF STRAW PROPOSAL TO MODIFY 16 NYCRR PART 230**

Natural Resources Defense Council (NRDC) respectfully submits these Comments in response to the New York Department of Public Service Staff’s (Staff) Straw Proposal Regarding Modification of 16 New York Codes, Rules, and Regulations (NYCRR) Part 230 (Proposal), filed on July 16, 2024.¹

NRDC thanks Staff for recognizing and offering this Proposal to modify Title 16 of the NYCRR Part 230 (Regulations) to align the rights, requirements, and responsibility of gas utilities, or Local Distribution Companies (LDCs), in the State with the ambitious greenhouse gas and co-pollution emission reduction targets required by the Climate Leadership and Community Protection Act (Climate Act). As described in the Proposal, the Regulations currently provide entitlements that jeopardize achievement of long-term State objectives under the Climate Act. Modification of these regulations is critical for avoiding unnecessary costs and risks and, in turn, the potential impacts on affordability for LDC customers.

NRDC offers these comments in support of the Proposal.² The body of these comments adopt the organization and numbering of the appendix to the Proposal. Throughout these comments, NRDC suggests additional requests for information from the LDCs to inform and support the design of the final Proposal; these information requests are summarized in an attachment at the end of these comments.

1. NRDC supports aligning gas system extension allowances with the minimum statutory entitlements

Staff’s proposal to amend the utility gas system extension allowance entitlement and related provisions within 16 NYCRR Part 230 is a crucial step toward aligning New York’s gas utility regulatory framework with the State’s climate goals set forth in the Climate Act. The current structure of the entitlement, codified in Part 230, expands upon the statutory minimum entitlements established under Public Service Law (PSL) §31(4) and Transportation Corporations Law (TCL)

¹ State of New York Department of Public Service. Staff Straw Proposal Regarding Modification of 16 NYCRR Part 230. July 16, 2024. Case 20-G-0131.

² NRDC prepared these comments with assistance from Synapse Energy Economics, Inc.

§12 (colloquially known as the “100-foot rule”), which creates perverse incentives for the expansion of gas infrastructure that are fundamentally at odds with the emissions reductions necessary to meet Climate Act targets and the broader transition to a clean energy economy.

The Climate Act sets ambitious emissions reduction targets, requiring a 40% reduction in greenhouse gas emissions by 2030 and an 85% reduction by 2050.³ It also includes important provisions for climate justice that prioritize equity in fighting climate change to ensure that disadvantaged communities are not left behind in New York’s clean energy transition.⁴ To meet its bold climate justice and emission reduction mandates, New York will need to drastically reduce fossil gas use, especially in our buildings and power sectors, and to strategically downsize the utility gas system as gas use shrinks to manage the long-run cost, affordability, and equity impacts of transitioning the gas system.

Fortunately, technology advances have obviated the need to further expand the utility gas system. Gas has historically been treated as an essential service for building end uses, such as space heating, water heating, cooking, and clothes drying. However, with the availability of modern electric alternatives, this is no longer the case. Electric alternatives are widely available, cost-effective, and supported by both state and federal policies and programs. These alternatives provide compelling reasons to amend the 100-foot rule and begin to downsize the utility gas system:

- **Cost-Effective Electrification:** Electric heating options, including heat pumps, are particularly cost-effective for new construction in New York.⁵ While the 100-foot rule applies to both new and existing buildings, most new gas connections are for newly constructed buildings, which already have the opportunity to install electric systems at a lower cost than retrofitting existing buildings. For customer transitioning from fuels like propane and oil, electrification will also produce operational cost savings.
- **Superior Efficiency of Heat Pumps:** Electric heat pumps are far more efficient than even the best natural gas furnaces. Heat pumps can transfer 300-400% of the energy they consume, compared to the 90-95% energy efficiency of modern gas furnaces. This significant difference in efficiency means that heat pumps not only reduce energy consumption but also lower greenhouse gas emissions.⁶

³ NY State Senate Bill S6599. NY State Senate. June 18, 2019.

⁴ *Id.*

⁵ See Rocky Mountain Institute. "Residential New Construction: New York City, Single-Family Homes." Advancing Energy Efficiency in NYC Buildings: A Roadmap. Rocky Mountain Institute, October 2020. Available at: https://rmi.org/wp-content/uploads/dlm_uploads/2020/10/eeb_nyc.pdf.

⁶ Miller, Cesca, Andrew Satchwell, and Jenya Kahn-Lang 2014. The Customer Bill Impacts of Efficient Building Electrification. 2024 ACEEE Summer Study on Energy Efficiency in Buildings proceedings.

- **Health and Environmental Benefits:** Electric heating and appliances are significantly cleaner than their gas counterparts. Gas appliances contribute to both indoor and outdoor air pollution, producing nitrogen dioxide, carbon monoxide, and other harmful pollutants. Electric options, particularly those powered by clean energy, help improve air quality and reduce the health risks associated with burning fossil fuels.
- **Clean Power Sources:** Electrification of heating and other building end uses draws energy from an increasingly clean and renewable power grid. New York’s Clean Energy Standard, alongside neighboring states’ Renewable Portfolio Standards and the Regional Greenhouse Gas Initiative, is rapidly decarbonizing the electricity sector.⁷ By shifting from gas to electric, New Yorkers are drawing power from this increasingly cleaner grid, further reducing both greenhouse gas emissions and other harmful pollutants.

Addressing perverse incentives for the expansion of gas infrastructure is urgently needed. Current provisions in Part 230, which effectively require existing customers to subsidize gas system expansion, promote the growth of gas service by obligating utilities to extend gas mains and service lines at little or no cost to new customers. These costs are passed on to all ratepayers and incorporated into the gas utility’s rate base. While this approach once played a role in transitioning away from dirtier fuels, it now perpetuates fossil gas use and expansion, making it more difficult and expensive for New York to meet its Climate Act goals. The proposed amendments to the extension allowance subsidy would help phase out these entitlements, shifting the incentive structure toward cleaner, more sustainable alternatives such as electrification and thermal energy networks.

Without these amendments, gas utilities are likely to continue investing billions in new infrastructure, further locking in fossil gas use and increasing the risk of stranded assets—investments that will lose value as the transition to clean energy accelerates. These stranded costs will ultimately be borne by ratepayers, disproportionately impacting low-income customers and disadvantaged communities.

The proposed amendments to the extension allowance subsidy entitlement and related provisions within Part 230 are a critical and timely evolution of New York’s utility regulation, designed to reflect the State’s decarbonization goals. By shifting the focus away from gas expansion and toward electrification, energy efficiency, and non-pipeline alternatives, these amendments will support a cleaner, more equitable, and more affordable energy future. In doing so,

⁷ See NYSERDA, “Clean Energy Standard” Accessed September 10, 2024 at: <https://www.nysesda.ny.gov/All-Programs/Clean-Energy-Standard>.

they will significantly aid New York in meeting its Climate Act targets and ensuring a just transition for all New Yorkers.

Importantly, while reducing gas system extension allowances to the statutory minimum is a necessary step, it does not fully address the core issue inhibiting the gas system transition in New York—i.e., the statutory 100 foot rule and the utility obligation to serve gas, which creates an implicit entitlement to gas service.⁸ This obligation compels utilities to expand and maintain gas infrastructure to meet customer demand, even as the State’s climate goals require a rapid reduction in fossil gas use. As long as utilities are required to provide gas service upon request, there will be ongoing investments in gas infrastructure, locking in fossil gas use and driving up costs for all ratepayers.

This entitlement to gas service under the obligation to serve is a significant barrier to an equitable, orderly, and affordable transition of the gas system. It perpetuates the notion that gas is a permanent, essential service, which not only delays the adoption of cleaner alternatives like electrification but also disproportionately burdens low-income and other customers who may not have the ability or means to leave the gas system. As a result, they will be left to shoulder the long-term costs of maintaining an oversized gas system, even as the need for it diminishes. As gas use declines, utilities will spread the fixed costs of maintaining the system over fewer customers, leading to higher rates and exacerbating energy affordability issues.

To ensure an equitable transition, the obligation to serve must be reconsidered in light of New York’s decarbonization goals. The NY Home Energy Affordable Transition (HEAT) Act⁹ provides a framework to address this by phasing out automatic entitlements to gas service and instead promoting alternatives like electrification. By paring back the obligation to serve, NY HEAT creates a framework that helps prevent further investment in gas infrastructure that would otherwise result in stranded assets and higher costs for ratepayers. This shift is essential for aligning the regulation of gas utilities with the Climate Act’s emission reduction and climate justice policies, ensuring that all New Yorkers benefit from a cleaner, more affordable, and just energy future.

2. NRDC supports the Proposal’s definition of “appurtenant facilities” in 16 NYCRR § 230.1 with a suggested modification to make the language clearer.

The extension allowance in Part 230, as Staff correctly notes, expands the gas network by having “new applicants receive gas service . . . presumably moving closer to more potential utility

⁸ PSL § 30, § 31, and TCL §12.

⁹ Senate Bill S2016B, 2023-2024 Legislative Session.

service applicants, which in turn would extend the incentive to still more potential customers because closer gas infrastructure would translate to larger portions of new extension costs being covered by the 100-foot rule, thus compounding the issue.”¹⁰ One of the requirements of Part 230 is that LDCs provide applicants with “appurtenant facilities” at low or no cost to the applicant.¹¹ The lack of specificity regarding “appurtenant facilities” in § 230.1 potentially allows LDCs to include facilities within a gas line extension project that are not necessary to safely or effectively service for that *specific* applicant. Rather, LDCs may be incentivized, as noted by Staff, to include “meters, regulators, sensing lines to a regulator, vent lines, and even facilities that only function in extraordinary circumstances.”¹² This could mean installing infrastructure that is not strictly needed for the requested connection but could be oversized or leave room for future connections.

Presented with the opportunity to expand the gas network and increase revenue through increased capital expenditures and gas sales, an LDC has the incentive to include, within an individual applicant’s gas line extension, appurtenant facilities that are not necessary to meet that *specific* applicant’s needs but rather in anticipation of future gas demand further down the line. This daisy chaining of the gas system through new applicants serves to expand the gas network at the expense of all LDC ratepayers, since the costs of entitlements and the associated capital projects are spread over the entire LDC’s rate base.

While NRDC takes no position on the specific wording that Staff recommends, NRDC generally supports the effort to develop a more refined definition. Further, NRDC recommends one specific modification to clarify the definition of “appurtenant facilities” to mitigate against the potential result noted above. Specifically, the definition of “appurtenant facilities” should be “any objects, devices, or other accessories necessary to the adequate provision of gas service to a customer, specifically related to the portion of mains and/or service line to be installed to provide service to *that individual* applicant for new gas service.” This additional language clarifies that any individual appurtenant facility should be used only to service the specific needs of the individual applicant at issue who requested the gas extension. Broadly, this language seeks to align connection practices, which historically sought to spread costs across a growing rate base, with current and future changes in markets and policies that are leading to, and will continue to lead to, declines in sales and customers.

¹⁰ Straw Proposal at 9.

¹¹ 230(b)(2).

¹² Straw Proposal at 12.

Finally, NRDC requests information from the LDCs on how often the daisy-chaining (i.e. when a new connection gives rise to additional applications from adjacent new or existing occupants) occurs.

3-5. NRDC supports providing all applicants with the same entitlement, and no more than required by State law.

To encourage a shift away from dirtier heating fuels such as coal and oil, the Commission doubled the entitlement that a residential *heating* applicant is eligible to receive at no cost. Specifically, the Commission notes that residential heating applicants are entitled to “(1) the material and installation costs relating to: (i) up to 100 feet of main and appurtenant facilities; and (ii) up to 100 feet of service line measured from the centerline of the public right-of-way...”¹³ This extra increase in the entitlement from 100 feet for residential non-heating to 200 feet for residential heating customers treats these customers differently solely upon the basis of the fuel they chose to heat their homes with. This gives undue preference to those customers that choose to heat their homes with fossil gas to a greater entitlement than those who choose to heat their homes with other sources such as electricity. While the provision of heating services is often given special consideration for the potential impact on residents’ health and wellbeing, heating can be provided from a number of fuel sources, including electricity. (Refer to NRDC’s comments in section 1.) The Commission should adopt the Proposal’s modified, revised entitlement to 100 feet of main and service line combined through a new, general residential applicant category.¹⁴

NRDC also supports the Proposal’s revisions to the non-residential gas service line extension entitlement. Currently, non-residential applicants could be benefiting from both 100 feet of main line extensions and an indeterminate amount of service line extensions.¹⁵ Given that the statute only requires provision of a total of 100 feet of main or service line for new gas customers at no extra cost to the applicant, providing a potentially unlimited amount of service line for new non-residential gas applicants dramatically increases the entitlement far beyond what was envisioned by the Legislature. Additionally, Staff should request data from the LDCs as to how many feet of service line is placed in service annually for non-residential gas applicants and the cost to the LDCs of this additional service line extension.

NRDC notes that the total elimination of the 100-foot rule obligation to serve new fossil gas customers, as proposed in the NY HEAT Act,¹⁶ represents a better outcome than maintaining any

¹³ 16 NYCRR § 230.2(b).

¹⁴ Straw Proposal at 14.

¹⁵ 16 NYCRR § 230.2(d).

¹⁶ S2016B (2023-24).

entitlement, to avoid jeopardizing Climate Act attainment, increasing risk with additional potential stranded costs, and incurring future burdens to all gas ratepayers.

6. NRDC supports prohibiting LDCs from providing more than the entitlements set forth in § 230.2, with the applicant bearing the cost of any facilities installed in excess of the entitlements.

NRDC agrees with the Proposal that LDCs should not provide entitlements beyond those set forth in § 230.2 and that the costs of any additional facilities, including main or service lines, in excess of the statutory entitlement should be borne by the specific customer. Without these changes, all LDC customers will continue to pay for the additional facilities to connect new applicants to the gas network. The more costs that the LDCs put into the rate base under the current entitlement scheme, the greater the incentive to sell more gas to current and new applicants becomes to recover those investment costs, the higher the rate pressures for existing customers, and the higher the risk of stranded assets. This pressure runs counter to the stated objectives of both the Climate Act, generally, and the Scoping Plan’s strategies for downsizing and decarbonizing the gas system. If fossil gas decreases statewide by at least 33 percent by 2030 and 57 percent by 2035, as noted as necessary in the Scoping Plan, then any costs in excess of the entitlements borne by the LDCs’ customers will be spread over fewer customers, increasing the overall costs to those individuals.¹⁷

7. NRDC supports the Proposal’s requests for information regarding tax, revenue, and expense impacts but maintains that the specific data requested will only give an incomplete view of the changes facing gas utilities.

In the Proposal, Staff seeks information from the LDCs on the extent to which the proposed modifications to entitlements and Contributions in Aid of Construction (CIACs) would impact utility revenues and expenses, and for a description of tax implications.¹⁸ NRDC supports this request for information; in addition, NRDC raises other information requests to better inform the final rule.

Staff’s request appears to be motivated by concerns about the financial condition of the LDCs and the potential for financial strain to lead to degradations in service reliability and safety. These are important concerns. However, NRDC notes that the responses to Staff’s questions must be considered in light of the much larger picture. That is, gas utilities are facing changes to revenue, sales, rate base, customers, and the like due to the larger energy transition—spurred both

¹⁷ Scoping Plan at 350.

¹⁸ Proposal at 15-16.

by market and policy forces—regardless of changes to the extension allowance. Changes in net revenues and taxes will be second-order considerations. Generally speaking, net utility costs would go down with high CIACs. Capital expenses won't change, but revenues will come from CIACs instead of from rates. That means utility investors will be paid back immediately, thereby incurring no need to compensate investors for using their money over time. Regulation should be neutral to when investors are paid back, so long as they are paid a fair return for the time their money is utilized. If different tax treatment results in some minor impact on investors, that should be a minor consideration compared with the major issues with the gas transition of which extension allowance entitlements are just one part.

The larger question is how to mitigate impacts to meet policy objectives like reducing GHG and co-pollution emissions, protecting affordability for disadvantaged populations, managing stranded asset risk, and maintaining safe and reliable service. A status-quo policy runs the risk of expanding the rate base at the same time as sales are decreasing overall, due to market and other policy forces. Resultant increases in rates would prompt some customers to leave the gas network in favor of more affordable alternatives, and most will reduce consumption; this dynamic would leave fewer customers and/or sales to cover fixed costs, thereby spurring a further increase in rates and initiating a feedback loop of sales declines and rate increases that could ultimately lead to stranded assets—some of which from system expansions that will serve for a small fraction of the engineering life of the material.

Thus, decisions regarding changes to the extension allowance subsidy should not be based solely on short-term impacts on the gas utilities. Concepts raised by the extension allowance, such as recovery of the applicant's responsibility, along with the larger set of gas transition policies, should be reassessed relative to a set of criteria aligned with New York public policy goals on a periodic basis (or as specified in future legislation).

8. NRDC agrees with the Proposal's requests for information on extension costs and maintains that more transparency is needed in other areas as well.

The Proposal requests information from the LDCs about the costs that would be imposed on new customers from modification of the extension allowance subsidy.¹⁹ Specifically, Staff asks LDCs to provide the average cost per foot of installation of a new service line and a medium pressure (60 psig) main extension performed over the last five years, and to provide an approximate total cost for an average new natural gas customer (residential and commercial provided separately) who only receives 100 feet total of main and service line in accordance with Staff's Proposal.

¹⁹ Proposal at 16.

NRDC further asks that the data requested by Staff be provided annually and that the period covered by the data be extended to start in 2017 (to include pre-COVID years, and to align with the data previously provided in the August 2022 joint LDC filing on the costs of extending service to new customers). In addition, NRDC asks for these data to include information on how these costs differ for new building construction and existing buildings, as well as detailed information on the building(s) being served by each new connection (such as market value of the building, building square footage, number of housing units, information on end-uses, projected energy usage, and annual bills). Additionally, NRDC asks for information about new connections numbers, costs and charges to applicants, pooled allowances, delays in service, and unrecovered costs for single family buildings, multi-family properties, and mobile homes for each utility annually for 2017 through 2023. See questions in the appendix.

9. NRDC supports the Proposal’s recommendation to charge applicants “actual costs” in excess of the entitlement, rather than “actual reasonable costs” as currently written in § 230.3(a)(1).

A core principle of utility regulation is the cost causation, or that those that benefit from utility services should pay their portion of actual costs for those services. The Commission’s current interpretation at § 230.3(a)(1) regarding limits to surcharges for costs beyond the entitlement that a customer must bear is limited to *actual reasonable costs*. This does not reflect the actual costs that an LDC may incur to extend a main or service line to a particular applicant. Rather, it represents, as Staff notes, the “cost for installation in similar, general circumstances.”²⁰ Under this framework, there is little or no check on actual costs, since the utility can include the difference between actual reasonable cost and actual cost in rate base. The use of actual reasonable cost serves as a subsidy by existing utility customers to the individual new customer. Further, a new connection brings with it the promise of an increase in future sales, and so the utility has a strong incentive to depress costs to be charged to applicants for new connections. This disconnect between actual costs and actual reasonable costs should be eliminated.

Furthermore, NRDC recommends that Staff make a data request to the LDCs requesting any information regarding annual total cost differentials between using an actual reasonable cost metric and an actual cost metric. Staff points to data showing that, in 2021, the LDCs spent over \$392 million of ratepayer fund to attach new customers.²¹ This presumably includes costs in excess of what should have been charged to the rate base had actual, rather than actual reasonable, cost

²⁰ Straw Proposal at 17.

²¹ Case 20-G-0131, Modernized Gas Planning Process: Costs of Extending Service to New Customers (filed August 10, 2022).

been used. However, it is unclear from the data collected how much larger this total spend is as a result of using actual reasonable cost estimates which puts more costs on the rate base and fewer on the actually benefited customer.

10. NRDC supports approaches to recovering cost of service and gas connection for new customers that minimize risk to existing ratepayers and remove incentives to expand the gas system

The Proposal requests stakeholder comments on whether to continue to allow LDCs to recover the costs of facilities in excess of entitlement through surcharges or require that applicants pay any required CIAC when the facilities are installed.²² The Proposal outlines three options: 1) require that applicants pay any required CIAC up front; 2) require that new customers pay any required CIAC over the course of five years, which approximates the current limitation of the surcharge to 20 percent of actual cost per year; or 3) maintain the current limitation in 16 NYCRR §230.3(a)(4)(iii), which requires that any surcharges cease after ten years.

NRDC is generally concerned with any approach that lowers the upfront or overall cost of service and gas connection for new customers, since artificially low upfront costs incentivize new customers to connect to the gas system. Allowing LDCs to recover the costs of facilities in excess of entitlements by requiring that applicants pay a CIAC would reduce impacts and risk of harm to existing customers, because there is a reasonable guarantee that a utility can recover costs.

NRDC prefers the first option presented by the Staff to require that applicants pay any required CIAC up front. Ideally, this would happen before groundbreaking, because this should avoid potentially uncollectible expenses if the construction project is cancelled after the LDC completes construction for the connection. If the CIAC is not paid before construction commences, the surcharge calculation should account for the utility's carrying costs.

11. NRDC supports Staff's proposal to revoke §230.3(a)(2).

As described on p. 18-19 of the Proposal, §230.3(a)(2) provides facilities in excess of the entitlement to applicants at no direct cost to the applicant. NRDC agrees with the proposed change.

12. The Commission should end its policy of pooling extension of entitlements and only allow entitlements to the extent required by law

As noted in section 1 of these comments, the Commission, since at least 1986, has interpreted PSL § 31 to allow for extension allowances that are far more generous than what the statutory text requires. Above, we noted that the Commission has interpreted the 100-foot rule in a way that doubles the entitlement for residential heating customers to include up to 200 feet of service and

²² Proposal at 18.

main line extensions to be paid for by LDC customers. The Commission has also interpreted the law to allow for pooling of extension entitlements such that a multi-unit residential building could pool all of their 100-foot entitlements into either a significantly longer (and more costly) extension or pay for service lines to serve a number of units within a single property. For example, a single multi-family building with eight residential units could conceivably receive 800 feet of main and/or service line extension at no cost to the applicants or the LDC, with the LDCs customers bearing that cost. This could serve to extend the gas network even further out, bringing it that much closer to new potential customers who may now be within the 100-foot radius. This expansion of the gas network, as noted throughout these comments, runs counter to the general objective of the Climate Act and the specific gas use reduction requirements noted in the Scoping Plan. The Commission should scale back its 1986 interpretation to what is minimally required in PSL § 31. This would entitle a residential customer, regardless of use, to 100 feet, but no more gas main line extension up to the property line, regardless of the number of units within a building.

Staff should request additional information from the LDCs in regard to the pooling of entitlements. Staff should request that the LDCs provide information as to how many customers pool their entitlements annually, the average distance of a pooled entitlement, the average cost of providing extended service for pooled entitlements, and any customer information such as average number of units for which pooled service is requested. All of this information should be broken out by affordable housing versus other.

13-14. NRDC agrees with Staff recommendations to revoke §§ 230.3(a)(4)(ii) and (a)(6), and §230.3(a)(5).

The Proposal recommends revoking §§ 230.3(a)(4)(ii) and (a)(6), because these provisions provide applicants with facilities beyond the statutory entitlement at no direct cost to the applicant.²³ Staff also recommends revoking §230.3(a)(5), which requires LDCs refund gas customers for any surcharge within five years if those customers' total adjusted gas revenues exceed the carrying cost of the main extension serving them. NRDC supports both of these recommendations.

15-16. NRDC supports improvements in reporting and standardization of gas utilities' methods of recovering facilities costs for line extensions.

While §230.3 provides some limitations for main extension surcharges in excess of entitlements, the Proposal notes a lack of guidance for surcharge calculation methods for main and

²³ Proposal at 21.

service line extensions.²⁴ As noted in section 10 of these comments, NRDC agrees with Staff's concern that any CIAC or surcharge calculation method that lowers the upfront or overall cost of service for applicants provides unwarranted incentive for customers to connect to the gas. CAICs should be designed to accurately convey the cost of a new connection across all LDCs, system allowing customers to weigh opportunities for other energy options.

LDCs should provide greater clarity about the language used to describe CIAC requirements. Based on a review of Con Ed and Niagara Mohawk's (NMPC) tariff, the surcharge calculation appears to be largely consistent, but a few aspects are not clear.²⁵ For example, an NMPC new connection applicant who does not immediately connect to service is responsible for "the entire reasonable expense of providing, placing and constructing such facilities." It is unclear how NPMC defines "immediate" in this case, it is unclear when the customer is responsible for paying the CIAC, and it is unclear how the "reasonable expense" is calculated.

17. Staff recommends changing the depreciation figure in §230.5 to better reflect Commission-approved depreciation rates of these installed facilities. Staff invites comment on how gas depreciation rates in this section should be set. (Page 24)

No Comment.

18. NRDC urges Staff to prioritize assessing how planned changes to line policy extension can coincide with ongoing electrification programs.

On p. 24, the Proposal discusses how changes to the 100-foot rule can coincide with ongoing electrification programs to allow for prospective applicants for gas service to consider energy sources with lower GHG and co-pollution emissions. NRDC maintains that this is a critical task to ensure affordability, meet the Climate Act's goals, and it is particularly important where disadvantaged communities may be impacted.

²⁴ Proposal at 22.

²⁵ Consolidated Edison and Niagara Mohawk Power Corporation (National Grid) currently require new connecting customers to pay 20 percent of the actual reasonable cost of additional appurtenant facilities (additional to the facilities that the utility is obligated to provide) annually beginning when gas service is first available. Customers are credited for 50 percent of adjusted gas revenues, not to exceed the cost of the surcharge. Surcharges will cease after ten years or if annual adjusted gas revenues equal or exceed 40 percent of the actual reasonable cost of the extension for two consecutive years.

Customers who request service but do not connect immediately are responsible to pay the entire reasonable cost of installation (including the cost for the facilities the utility is required to provide under the 100 ft rule and additional facilities) upfront. Con Edison allows customers to be refunded for the cost of facilities that the utility is required to provide (reduced 3 percent annually for depreciation) once the customer connects to service. NMPC only allows customer refunds if they connect to service within one year of installation; customers are eligible to be refunded for the portion of costs for the facilities the utility is required to cover and for the portion of expenses justified by adjusted gas revenues (reduced 3 percent annually for depreciation).

The Commission can align changes to gas extension policies with ongoing electrification programs by offering greater financial support for zero emission buildings, which can incentivize developers to adopt clean energy technologies, eliminating the need for new fossil fuel infrastructure. Electric extension allowances could also be increased for buildings that are "electric-ready," meaning they are equipped to integrate EV charging stations and smart grid technologies, which will further enable demand flexibility and efficient energy use.

Consolidated Edison (Con Ed) has introduced another innovative model for this kind of policy shift. In its last rate case, the Company established a Non-Pipeline Alternative (NPA) service connection program that allows customers to redirect their gas system extension allowance or the cost of replacing an existing service for their building toward the cost of fully electrifying. By giving customers the option to apply their gas extension entitlements toward electrification projects, Con Ed's NPA program not only helps to reduce reliance on gas infrastructure but also empowers customers to choose clean energy solutions that align with the State's climate goals. The Commission should consider expanding this model statewide through its revisions to Part 230 thereby enabling customers to redirect their gas system allowance to fund electrification measures, which would increase customer choice, reduce future stranded asset risk, and accelerate the state's transition to a clean energy economy.

19-20. NRDC makes no comment on situations that deserve special attention to ensure that changes to Part 230 will not interact with the Act's implementation in problematic ways and on the potential impacts of modifying Part 230 on planned developments, including affordable housing, and strategies to address such impacts.

Revisions to the extension allowance entitlement must aim to eliminate ratepayer subsidies for gas infrastructure expansion to the maximum extent possible. Granting exceptions for increased extension allowances would incentivize the continued expansion of gas infrastructure, which conflicts with New York's decarbonization objectives.

No categorical exceptions to the general policy of minimizing gas extension allowances should exist; however, if the Commission decides certain instances do warrant greater allowances, these exceptions should be exceedingly limited and subject to strict oversight. Any exception should only be granted through a petition process that justifies the need for the increased allowance and demonstrates how their exemption aligns with the State's climate policies. Furthermore, in no instance should these exceptions result in a subsidy borne by the general customer base to benefit new connecting customers. The costs of gas service extensions should be borne by the applicant, reflecting the true cost of their impact on the system, rather than spread across all ratepayers. In other words, they should be constrained to what the new customer will contribute to the rate base

through their expected gas use, based on a very short payback period, to ensure fairness and alignment with cost-causation principles.

Overall, eliminating or reducing ratepayer subsidies of gas line extensions can increase affordability and ratepayer savings. In California, ratepayer subsidies for line extensions were estimated at \$130 million in 2021 and projected to increase to \$168 million in 2023. When the California PUC decided to eliminate ratepayer subsidies for line extensions, it found that the elimination would save ratepayers an average of \$110.5M/year 2024-2026.²⁶ Furthermore, the California PUC found this change would advance equity, because low-income customers were “typically not the ones applying for, or benefiting from, the gas line subsidies (due to the fact that they are more likely to be renters than homeowners).²⁷ The state’s programs focused on subsidizing zero emission equipment for low-income housing also mitigated concerns that low-income customers would be unable to pay to electrify and would be “left behind” with higher rates as other customers left the gas system.²⁸ In New York, existing gas customers have spent approximately \$1 billion over a five year period subsidizing the expansion of the gas system due to the 100-foot rule,²⁹ so reducing extension allowances should drive meaningful savings that improve affordability for all gas customers.

Additionally, eliminating or reducing ratepayer subsidies of gas line extensions will make zero emission new construction even more cost-competitive and attractive. The economic feasibility of zero emission new construction is already established, and by limiting gas subsidies, the market signals will more strongly favor electrification. Existing buildings seeking to convert from delivered fuels like propane or oil to either gas or electricity will also benefit from operational savings, so there is no reason for greater gas extension allowances to incentivize gas over electricity. Removing the incentives for gas service will further the State’s climate and clean energy goals by reducing reliance on fossil fuels and cutting greenhouse gas emissions from buildings, which are a significant source of emissions in New York.

Importantly, the Commission has many tools in its toolbox to address energy affordability, including many that can be fully aligned with the State’s climate and clean energy policies such as energy efficiency, demand flexibility, rate design, and energy affordability programs; there is no

²⁶ Decision 22-09-026 Phase Iii Decision Eliminating Gas Line Extension Allowances, Ten-Year Refundable Payment Option, And Fifty Percent Discount Payment Option Under Gas Line Extension Rules. California Public Utilities Commission. 2022. pp. 17-18.

²⁷ *Id.* at 30.

²⁸ *Id.*

²⁹ "New York Spends Millions on Subsidized Gas Line Extensions." RMI. Retrieved from Proceeding No. 20-G-0131: Proceeding on Motion of the Commission in Regard to Gas Planning Procedures. Available at https://rmi.org/wp-content/uploads/2022/12/new_york_subsidized_gasline_extensions.pdf.

reason to rely on gas system extension allowance subsidies, which conflict with the State’s climate and clean energy policies, to marginally improve the affordability of new gas system connections. The Commission should instead rely on the other tools in its policy toolbox.

Appendix: Requests for Additional Information

1. How many feet of service line is placed in service annually for non-residential gas applicants and the rate-based cost of this additional service line extension?
2. Per year for the last 10 years, please provide the number of adjacent or enabled new connections within 1, 3, and 5 years of a previous main extension pursuant to the 100-foot rule. If such data are not available, please provide a description of the frequency of occurrence.
3. Does the LDC design main extensions and new service lines to enable additional customers to connect in the future? If so, please provide documentation and guidance on the design.
4. Please provide all data on the average cost per foot of installation of a new service line and a medium pressure main extension as requested by Staff, broken out into two categories of gas extensions: 1) values that apply to new building construction and 2) values that apply to existing buildings.
5. Please provide data on the building(s) being served by each new connection (to the extent available):
 - a. Market value of the building(s)
 - b. Number of buildings being served
 - c. Building square footage (of each individual building and total)
 - d. Number of dwelling units in each building
 - e. End-use equipment in each building (e.g. space heating, cooking, and drying)
 - f. Projected energy usage (of each individual building and total) including methods used in calculations
 - g. Estimated annual bill for each customer served by the new connection including methods used in calculations
6. Please provide the following separately for single family buildings, multi-family properties, and mobile homes for each utility annually for 2017 through 2023:
 - a. Number of new connections
 - b. Cost of appurtenant facilities (including all utility- and customer-responsible costs) for each new connection

- c. Cost of entitlement (utility-obligated portion of the new connection) for each new connection
- d. The actual reasonable cost charged to the customer to be recovered through surcharge for appurtenant facilities that exceed the entitlement, provided for each new connection
- e. Number of new connection projects making use of pooled allowances (where multiple applicants aggregate their entitlements to exceed the footage limits of an individual entitlement), the number of applicants for each project, the distance of pooled entitlements, the average cost of providing extended service for pooled entitlements, and any customer information such as average number of units for which pooled service is requested. All of this information should be broken out by affordable housing versus other.
- f. Number of new connections where applicants do not immediately connect to service once gas service is installed
- g. Total unrecovered costs for appurtenant facilities that exceed the entitlement where applicants fail to repay surcharges in full