

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on September 18, 2002

COMMISSIONERS PRESENT:

Maureen O. Helmer, Chairman
Thomas J. Dunleavy
James D. Bennett
Leonard A. Weiss
Neal N. Galvin

CASE 01-E-0359 - New York State Electric & Gas Corporation -
Petition for Approval of its Electric Price
Protection Plan.

CASE 02-E-0576 - New York State Electric & Gas Corporation -
Proceeding on Motion of the Commission as to
Tariff Revisions to the Economic Development
Zone Incentive, the Economic Development
Incentive and Small Business Growth Incentive,
filed in Cs 01-E-0359 and 01-M-0404.

ORDER ADOPTING ECONOMIC DEVELOPMENT PLAN IN PART
AND PROVIDING FOR FURTHER PROCEEDINGS

(Issued and Effective October 9, 2002)

BY THE COMMISSION:

BACKGROUND

Under the Rate Plan Order for New York State
Electric & Gas Corporation (NYSEG), the utility was directed to
develop an Economic Development Plan (ED Plan) that would fund
existing initiatives for fostering economic development and new
programs encouraging the attraction, expansion and retention of
businesses within its service territory.¹ On May 29, 2002, NYSEG

¹ Case 01-E-0359, supra, Order Adopting Provisions of Joint
Proposal with Modifications (issued February 27, 2002), Joint
Proposal, Exh. 113, § XI(E).

filed a proposed ED Plan that budgeted \$8 million for spending on economic development programs. The ED Plan filing followed a separate filing made on May 2, 2002, initiating Case 02-E-0576, where the utility made changes to tariffs governing some existing economic development programs.

Several parties submitted comments on the ED Plan proposal and the revised tariffs by August 5, 2002, within the time prescribed under State Administrative Procedure Act (SAPA) §202(1). NYSEG subsequently filed a reply.²

POSITIONS OF THE PARTIES

NYSEG's Initial Filings

In its May 2 filing, NYSEG relates that it re-examined its tariffs while undertaking the review of its economic development programs called for in the Rate Plan Order. NYSEG explains that it discovered deficiencies in three of its tariff programs -- the Economic Development Zone Incentive (EDZI), the Economic Development Incentive (EDI), and the Small Business Growth Incentive (SBGI) -- that require immediate attention.

NYSEG proposes changes to the discounts set forth in its EDZI tariff, for eligible customers located within Empire Zones (formerly denominated as Economic Development Zones).³ The utility would eliminate the existing discounts, which vary depending on the Zones' geographical boundaries or dates of creation, and replace them with a single incentive applicable in

² The unauthorized reply will be considered because it advances the record in this proceeding.

³ Empire Zones are created under General Municipal Law Article 18-B, and are administered by the Empire State Development Corporation; under Public Service Law (PSL) §66(12-c), Empire Zone electric service for eligible customers is priced at the utility's incremental costs.

all Zones regardless of geographical or temporal distinctions. NYSEG would set the uniform discount at \$0.015 per kWh for primary and secondary customers and \$0.0075 per kWh for sub-transmission and transmission customers (NYSEG's discounts are subtracted from otherwise-applicable bundled rates). Without these rate changes, the utility warns, it will fail to recover its marginal costs of serving the EDZI customers, as the EDZI tariff and §66(12-c) require.

NYSEG would also revise the EDZI eligibility criteria. Certain customers, the utility announces, have sought to expand EDZI eligibility by manipulating the tariff. To avoid any future attempts to broaden eligibility, the utility states it would distinguish between prospective customers and existing customers. Only prospective customers that intend to add new load within a Zone, the utility asserts, should qualify for the EDZI incentive discounts.

Turning to EDI,⁴ NYSEG would apply discounts of \$0.01 per kWh for primary and secondary customers and \$0.005 per kWh for sub-transmission and transmission customers. The revised discounts, the utility asserts, would ensure that EDI customers contribute towards common costs in addition to supporting utility incremental costs, and would properly align the EDI incentive with the EDZI incentive. NYSEG would also revise the EDI eligibility criteria to conform to the changes proposed for EDZI eligibility.

NYSEG plans to phase out the SBGI incentive.⁵ It would reduce the incentive to a discount of \$0.015 per kWh for the

⁴ This program, a predecessor to EDZI, is implemented under PSL §66(12-b), which requires rates priced to recover incremental costs and a contribution to common costs.

⁵ These discounts are offered to small business customers for their additions to load that exceed their historic usage.

balance of 2002, and eliminate it thereafter. According to the utility, the Rate Plan Order did not require continuation of the SBGI incentive,⁶ which was originally adopted under the Rate and Restructuring Order.⁷ Because that Order did not require continuation of the program either, and the tariff might attract "free riders," NYSEG believes that a phase out is appropriate.

NYSEG asks that consideration of its proposed tariff revisions be expedited. The utility is concerned that it will not recover its marginal costs under the existing rates, to the detriment of other ratepayers.

In its May 24 ED Plan filing, NYSEG takes a tariff-based approach to economic development. It references its May 2 tariff filing, and assumes that its changes to the EDZI, EDI and SBGI incentives will be approved by July 1, 2002. Turning to its other economic development tariffs, the utility proposes to modify the Economic Revitalization Incentive (ERI) and expand its scope to absorb the Business Retention Incentive (BRI) program, which would be discontinued. The existing Industrial Incubator Incentive (III) would be renamed as the Incubator Development Incentive (IDI), and eligibility would be broadened. The utility reports it will continue to offer the Self-Generation Deferral Incentive (SGDI).

To be eligible for either the ERI or the BRI, NYSEG explains, a customer must demonstrate that it receives government or employee-funded incentives. NYSEG reports, however, that it would allow Power for Jobs (PFJ) customers to apply their gross receipt tax (GRT) credit under that program

⁶ Case 01-E-0539, Joint Proposal, Exh. 113, §XI(A)(2), p. 38.

⁷ Case 96-E-0891, New York State Electric and Gas Corporation - Plans for Electric Rates and Restructuring, Opinion No. 98-6 (issued March 5, 1998).

towards the incentive requirement. NYSEG also understands that Empire State Development Corporation (ESD) may assist customers in complying with another requirement of the ERI tariff -- the development of a labor-management productivity plan.

Elaborating on its proposal to merge the BRI into the ERI, NYSEG notes the BRI would otherwise expire on March 2, 2003. The BRI, the utility continues, was established under the Rate and Restructuring Order, and afforded customers the opportunity to obtain rate reductions for a five-year term. The utility will permit those customers whose five-year terms extend beyond the March 2, 2003 expiration to transfer to the ERI for the remainder of the terms. The ERI discount of \$0.010 per kWh would be applied to the rates charged the former BRI customers.

NYSEG would continue to promote technology business growth through an incubator tariff. The former III would be retitled and modified into the more inclusive IDI. Eligibility would be expanded beyond businesses to include university research and development technology facilities. The discount would be set at EDZI levels.

NYSEG also updates its position on the EDZI and EDI programs. It claims that EDZI rates should be subjected to a floor price provision, preventing the rates from falling below the utility's marginal cost of service. Besides emphasizing that EDI should be subject to the same eligibility restrictions as EDZI, NYSEG asserts that it may phase out EDI in the future.

Customers participating in its economic development tariff programs, NYSEG stresses, must take service under its Bundled Rate Option (BRO) for the portion of their load receiving the incentive. As a result, the incentive discounts would be subtracted from the BRO rate. Customers, however, would be permitted to secure energy from a supplier other than

NYSEG, pursuant to the terms and conditions for retail access under the BRO rate.

NYSEG plans to limit its EDP budget to no more than \$8 million per year. The utility is concerned, however, that the proliferation of Empire Zones may increase customer demand for the EDZI rate. EDZI costs would then consume more of the \$8 million budget than anticipated. NYSEG proposes to constrain the draws on the budget needed to fund EDZI by reserving the right to reduce the level of the EDZI discounts.

ESD's Comment

After analyzing NYSEG's ED Plan and tariff filing together, the Empire State Development Corporation (ESD) concludes that more review is needed, albeit evaluating the ED Plan is difficult because the issues raised in the tariff filing are not yet resolved. ESD is concerned that NYSEG's proposals to significantly reduce or eliminate economic development discounts and to restrict eligibility for those discounts might undermine the utility's economic development efforts.

NYSEG's filings, ESD argues, also fail to adequately promote economic development in conformance with the 2002 New York State Energy Plan (SEP). According to ESD, it is decided in SEP that secure and affordable energy supplies are needed to expand job growth in New York, and that electric rate discounts are an important economic development tool used to achieve that goal.

Turning to the specific elements of the tariff programs, ESD opposes NYSEG's proposed reductions to the EDZI discounts, arguing that EDZI rates must be set at the utility's incremental cost. ESD also sees no basis for NYSEG's distinction between prospective and existing customers in determining eligibility for the EDZI rate. ESD protests that, because determining eligibility for Empire Zone benefits,

including EDZI, is its statutory responsibility, NYSEG's effort to establish its own EDZI eligibility criteria undermines ESD's exercise of its responsibilities.

Opposing NYSEG's plan to eliminate temporal and geographic EDZI rate distinctions, ESD complains that the utility has not shown any cost justification for its changes, or for its existing policy of offering different discounts within a Zone if its boundaries are expanded subsequent to its creation. ESD also finds unwarranted NYSEG's proposal to shorten the term of an EDZI rate discount award from 10 years to a minimum of three years. Another unacceptable aspect of NYSEG's EDZI revisions, according to ESD, is the policy requiring an existing business site to remain inactive for one year before it may be purchased by a new owner that qualifies for the EDZI discount.

ESD's analysis of EDI follows its approach to EDZI. As NYSEG has not justified its EDZI modifications, ESD asserts that the utility has not justified its changes to EDI either.

ESD would continue the SBGI program. NYSEG's only reason for discontinuing the rate, ESD complains, is the \$8 million limitation it has placed on its economic development budget. Over 2,000 customers, ESD continues, are taking SBGI service and NYSEG should not be allowed to eliminate such a successful program without justification. ESD dismisses an argument that SBGI attracts "free riders" because there is no analysis or proof substantiating that argument. ESD also argues NYSEG disregards the economic multiplier benefits achieved when businesses grow in response to the SGBI discounts.

According to ESD, the proposed SBGI phase out does not adequately protect customers in any event. Even under the phase-out, ESD claims, many customers could see bill increases of over \$1,000 annually, an amount that could be devastating to small businesses.

ESD characterizes NYSEG's proposed \$8 million budget as inadequate. NYSEG, ESD contends, has failed to identify a cost basis for limiting the budget to \$8 million. ESD interprets the Rate Plan Order as providing for a budget of up to \$12 million. Funding of the full budget, ESD believes, would enable the utility to avoid its proposed reductions to the economic development tariff incentives, thereby enhancing the potential for successful economic development.

Other electric utilities, ESD notes, include in their economic development budgets spending for promoting economic development through marketing efforts. Because NYSEG has not included in its budget any marketing costs, ESD believes that the utility should be required to continue current funding of marketing efforts outside the scope of the budget.

Reiterating its complaint that the record for evaluating NYSEG's ED Plan is inadequate, ESD urges that the record in this case be expanded. ESD asks that NYSEG be ordered to furnish evidentiary justification for the positions it has taken and that evidentiary hearings be conducted.

MI

Multiple Intervenors (MI) asks that NYSEG's ED Plan be rejected. The utility, MI claims, proposes reductions to economic development incentives that would "gut" economic development in its service territory.⁸ MI agrees with ESD that NYSEG's filing is inconsistent with SEP, which recognizes that higher electric rates are a significant barrier to economic development and job expansion in New York.

MI also complains that NYSEG has not complied with the Rate Plan Order. There, MI discerns, NYSEG was directed to develop a comprehensive economic development plan, which would

⁸ MI Comment, p. 2.

promote economic development through increased spending. MI accuses NYSEG of retrenching its economic development efforts in contravention of the Order.

NYSEG, MI argues, has not substantiated with data the basis for its reductions to its economic development incentives. MI also claims the utility has failed to reflect the impact of declining wholesale commodity prices in its analysis of marginal cost. MI concludes NYSEG's efforts are detrimental to ongoing and future economic development efforts.

Nucor

Nucor Steel Auburn, Inc. (Nucor) urges that NYSEG's proposed tariff changes and ED Plan be rejected. Nucor asserts that there is no factual basis for the reductions to the EDZI discounts that NYSEG proposes. NYSEG's EDP, Nucor claims, must be modified to enhance the effectiveness of its programs, "not to neuter them in contemplation of abandoning economic development efforts altogether."⁹

Painting a disturbing picture of economic development problems in upstate New York, Nucor points to declining business activity and falling population levels as indicating that NYSEG's service territory is at economic risk. The Empire Zone program, Nucor argues, was enacted to arrest this decline and revitalize business growth.

Nucor disputes NYSEG's claim that present EDZI rates fall below marginal costs. Nucor insists a proper analysis of spot market prices for energy and NYSEG's actual cost of delivery would clearly demonstrate that current EDZI discounts are well above the utility's marginal costs. NYSEG's claim to the contrary, Nucor protests, is based on its predictions of future energy costs. Those predictions, Nucor maintains, are

⁹ Nucor Comment, pp. 1-2.

inherently uncertain, and NYSEG has overstated them in any event. Moreover, Nucor argues that NYSEG's proposed EDZI discount would be inadequate and ineffective in attracting new business to New York.

Nucor also opposes NYSEG's efforts to revise the level of the EDZI discount that existing customers receive. Those discounts, Nucor declares, are guaranteed in the tariff for a period of 10 years, and NYSEG should not be allowed to disturb that guarantee. Continuing its analysis, Nucor urges rejection of NYSEG's proposal to prospectively reduce the 10 year term for the EDZI rate to as little as three years. Businesses contemplating relocation, Nucor claims, require rate certainty over a greater time period.

Nucor would also reject NYSEG's proposed revisions to EDZI eligibility requirements. According to Nucor, the utility's focus on additional load as the identifying characteristic crucial to EDZI eligibility finds no support in law or fact. A purchaser of an existing business, Nucor argues, is just as much a prospective customer as an entity that adds new load by building a new facility. NYSEG's approach, Nucor claims, would preclude revival of existing sites where businesses are facing the prospect of a permanent shutdown.

If NYSEG's proposed EDZI tariffs are not rejected outright, Nucor recommends that additional hearings be held. Tariff changes that would cripple upstate New York's economic redevelopment, Nucor concludes, should not be adopted without full evidentiary justification.

NYSEG's Reply

Responding to the commenters, NYSEG maintains its \$8 million budget complies with the Rate Plan Order. Expanding the budget to \$12 million, NYSEG notes, would increase by \$4 million

the amount drawn from the Asset Sale Gain Account (ASGA).¹⁰ NYSEG is concerned that the ASGA may be unwisely depleted, when other economic development draws on the fund are combined with the \$4 million budget increase.

NYSEG maintains that its revised economic development tariffs conform with the Rate Plan Order and will adequately promote economic development. NYSEG defends its modifications to the EDZI tariff, arguing that only new load should qualify for those discounts. NYSEG also sees no inconsistency between its ED Plan and SEP. According to the utility, substantial rate reductions under the Rate Plan Order and its predecessor Rate and Restructuring Order have boosted the economy in its service territory, satisfying SEP. NYSEG opposes further hearings or proceedings, as unnecessary to justify approval of its tariffs.

DISCUSSION AND CONCLUSION

NYSEG's proposed ED Plan and economic development tariff revisions are unsatisfactory in several respects. While some of the deficiencies can be addressed and corrected here, others require further consideration in additional proceedings.

The Economic Development Budget

NYSEG proposes to spend \$8 million per year on its ED Plan budget. The \$8 million budget is predicated upon substantial reductions to the economic development discounts available under the utility's various tariffs. Since NYSEG's ED Plan is based primarily on tariff discounts, reductions to the level of the discounts would prevent the utility from adequately

¹⁰ The ASGA was established under the Rate Plan Order as the repository for the net proceeds NYSEG realized upon the sale of the Nine Mile II Nuclear Facility. Case 01-E-0359, Joint Proposal, Exh. 113, §VI(C)(1), p. 13.

promoting economic growth in its service territory, to the detriment of all of its ratepayers.

Moreover, the \$8 million budget fails to fulfill the goals identified in the Rate Plan Order. It was anticipated there that "economic development opportunities in NYSEG's service territory should be significantly improved" by NYSEG's ED Plan.¹¹ NYSEG would retain "all existing programs" and "break new ground" through a 50% increase in spending on economic development over the \$8 million reflected previously in rates. Continuing spending at \$8 million conflicts with that analysis.

The Rate Plan Order provided that a budget of \$12 million was feasible, if \$4 million were recovered from the ASGA. NYSEG argues that the \$4 million in additional spending could deplete the ASGA. The utility has no cause for complaint, however, because if the ASGA is consumed it may defer the affected economic development costs for later recovery under the terms of the Rate Plan.¹²

A \$12 million budget would accord with NYSEG's recent experience; for the period from July 2000 through July 2001, the utility spent \$11.5 million on economic development programs.¹³ The \$8 million budget, in contrast, is a substantial step backwards to the levels expended under the prior Rate and Restructuring Order. A \$12 million budget is needed to maintain the existing level of economic development in the utility's

¹¹ Rate Plan Order, p. 11.

¹² Case 01-E-0359, Joint Proposal, Exh. 113, §VI(C)(5), p. 14.

¹³ It is presumed NYSEG will continue spending on economic development marketing at existing levels, outside the scope of this budget.

service territory, and NYSEG is directed to implement that budget.¹⁴

The Draft Tariff Process

As the parties point out, the record compiled to date is not sufficient to decide the several issues raised by NYSEG's economic development tariff filing in Case 02-E-0576.¹⁵ As a result, further proceedings shall be conducted. NYSEG shall update and serve on all active parties to this proceeding the marginal cost information it provided to our Staff on September 3, 2002. Moreover, NYSEG shall at the same time serve on all parties its updated justifications, also originally provided on September 3, for asserting that the SBGI tariff has attracted "free riders," undermining its effectiveness.

After the other parties receive its evidentiary filing, NYSEG shall collaborate with those parties in discussing its evidence. The utility shall file revised draft tariffs reflecting its discussions with the parties, and comporting with the directives set forth below, within 90 days of the date of this Order. Parties may then comment on the draft tariff filing and NYSEG's evidentiary support for its positions, within 45 days of the utility's filing.

The EDZI and EDI Tariffs

NYSEG proposes to substantially reduce the EDZI discount. Under PSL § 66(12-c), however, EDZI rates must be set at a utility's incremental cost. NYSEG has not justified its claim that the existing discounts drive the EDZI rate below

¹⁴ An economic development plan that we deem adequate satisfies SEP requirements; SEP does not mandate a separate or additional analysis.

¹⁵ The further suspension of those tariffs will be considered at another time.

marginal cost; the utility's September 3 evidentiary submittal was not served on other parties and was received too late for adequate analysis here.

Moreover, NYSEG proposes to subtract its EDZI discounts from the bundled BRO rate. EDZI customer options shall not be limited to the BRO. NYSEG shall develop in the draft tariff process an unbundled EDZI discount. Under an unbundled approach, customers would pay a stand-alone delivery charge while taking energy supply separately. The EDZI discount is then subtracted from the delivery service rate. For example, the discount could be designed to reduce or eliminate the non-bypassable wire charge (NBWC) component of that rate.

NYSEG's proposed changes to EDZI eligibility requirements are also unsatisfactory. NYSEG would allow only those customers it defines as prospective to obtain EDZI incentives for new load they add within a Zone.¹⁶ According to NYSEG, existing load would not qualify, unless the existing site where the load is located has been abandoned for at least one year.

Requiring abandonment of a site before it may be acquired by a prospective customer would hinder economic development and could impel the very decline in economic activity that economic development incentives are intended to forestall. Compelling an already economically-disadvantaged business sited in an Empire Zone to endure a lost year's earnings while awaiting EDZI service could lead to a permanent shut-down of the business, resulting in irreversible job losses.

Moreover, NYSEG's onerous restrictions on customer eligibility conflict with the policies underlying Empire Zone

¹⁶ Existing customers could add load at their sites to obtain the discount, but it would adhere only to the additional load.

benefits. A more appropriate definition of a prospective customer is one that either creates new load or acquires load through the purchase of existing facilities. For example, the Tax Law entitles new Empire Zone businesses to tax credits.¹⁷ To qualify as a new business, a new owner need demonstrate only that its ownership is substantially different from prior ownership at the site. Existing businesses not qualified for the credits are limited to those where both operation and ownership remain substantially the same. NYSEG's approach cannot be squared with the policy towards Empire Zone businesses expressed in the Tax Law.

Similarly, utilities other than NYSEG have successfully implemented distinctions between prospective and existing businesses less restrictive than NYSEG's proposal.¹⁸ To paraphrase the economic development zone rider tariffed by the Consolidated Edison Company of New York, Inc. (Con Edison), a prospective EDZI customer can be defined as follows:

- a) The customer's activities are largely or entirely different in nature from that of the previous customer; or
- b) If the activities are not different, the owner is different; or
- c) Business has not been conducted at the premises for at least six months prior to the application for EDZI benefits; or
- d) The predecessor customer is in bankruptcy and the applicant has obtained the business in a liquidation sale.

¹⁷ 2002 Laws of New York, Ch. 85, Part CC, §10, amending Tax Law §14(j)(1).

¹⁸ Consolidated Edison Company of New York, Inc., P.S.C. No. 9 - Electricity, Leaf Nos. 140-41.

Again, if the ownership of the business changes, it qualifies as a prospective business even if its operations remain the same. NYSEG shall reflect a broader definition of prospective customer consistent with the discussion above in the draft tariffs it files.

NYSEG's existing EDZI rates differ substantially depending upon a particular Empire Zone's boundaries and time of creation. NYSEG is directed to include with its draft tariffs a chart identifying the various existing discounts for each geographical Empire Zone and each expansion of a Zone, specifying the time of creation of each Zone and expansion. ESD's complaint that rates should not differ within a Zone will be addressed in the draft tariff process.

NYSEG's restrictions on the 10-year length of time the EDZI rate remains available to a customer are rejected. A ten-year term is needed to attract and retain customers. NYSEG shall specify in its draft tariffs that the EDZI rate will remain in effect for that term. NYSEG, however, may propose a marginal cost floor reopener to account for energy price risk, if applied only to a bundled EDZI rate option and not to the unbundled EDZI discount. Other parties may propose alternatives to the floor price approach.

NYSEG intertwines the rate design of EDZI with that for EDI. The distinction between the two services is that EDI rates may include a contribution towards common costs, in addition to recovering utility incremental costs. Since NYSEG has failed to justify its EDZI rates on an incremental cost basis, it has also failed to justify its EDI rates. Further examination of the EDZI rates therefore is required in the draft tariff process.

The SBGI Tariff

The Rate Plan Order does not require termination of the SBGI, and its elimination has not been otherwise justified. NYSEG, however, claims that among the 2,000 customers participating in the program are numerous "free riders" that would remain located within the service territory even if the discount were eliminated. The information NYSEG submitted in its September 3 filing supporting its contention and its proposed SBGI phase out will be considered in the draft tariff process.

Reporting Requirements

While flexibility in implementing the ED Plan maximizes the benefits of economic development spending, adequate accountability also must be ensured. Because NYSEG's economic development plan is tariff-based, criteria for selecting recipients for funding are established in the various tariffs. Moreover, the program is administered in accordance with tariff criteria. Therefore, ensuring adequate accountability extends only to enhanced reporting and evaluation requirements, enforced through cancellation of benefits for non-compliance.¹⁹

NYSEG shall develop guidelines for those purposes. Generic guidelines that the utility should adapt to its circumstances are attached at Appendix A. NYSEG shall submit its proposed guidelines to the Director of the Office of Consumer Education and Advocacy (OCEA) for review within 30 days of the date of this Order. Moreover, NYSEG shall file an Annual Report on its ED Plan with the Director of OCEA within 60 days of the end of each ED Plan Year.

¹⁹ The requirements will not adhere to the EDZI and EDI tariffs, because they are statutory entitlement programs.

The Commission orders:

1. New York State Electric & Gas Corporation is directed to revise its economic development budget to provide for \$12 million in funding in accordance with the discussion in this Order.

2. New York State Electric & Gas Corporation shall, within 30 days of the date of this Order, serve on all parties to this proceeding the evidence justifying its calculation of its marginal costs for the purposes of establishing Economic Development Zone Incentive and Economic Development Incentive rates, and the evidence supporting its analysis of the Small Business Growth Incentive tariff.

3. New York State Electric & Gas Corporation shall file with the Secretary and serve on all parties, within 90 days of the date of this Order, draft economic development tariffs in conformance with the discussion in this Order.

4. Parties to this proceeding are invited to submit to the Secretary an original and ten copies of comments on the draft economic development tariffs filed by New York State Electric & Gas Corporation under Ordering Clause 3, within 45 days of the date of their filing.

5. New York State Electric & Gas Corporation shall submit to the Director of the Office of Consumer Education and Advocacy economic development plan guidelines for review within 30 days of the date of this Order, in conformance with the discussion in this Order.

6. New York State Electric & Gas Corporation shall submit an Annual Report on its Economic Development Plan to the Director of the Office of Consumer Education and Advocacy within 60 days of the end of each year of the Plan.

7. This proceeding is continued.

By the Commission,

(SIGNED)

JANET HAND DEIXLER
Secretary

Generic Program Guidelines for Economic Development Reports

I. REPORTING/EVALUATION REQUIREMENTS

1. A review and evaluation of each participant shall be performed according to the criteria originally described in the participant's application under the tariff applied for.
2. Participants shall file a semi-annual progress report with the company and a final report when participation in a tariff program is completed. The reports shall describe the tariff activity criteria the participant achieved or made progress toward. The report shall compare the participant's progress to the criteria proposed in its application under the applicable tariff. The recipient shall maintain supporting documentation for company review. The company shall review each report and make a recommendation, if applicable, on whether the participant should continue in the tariff program.
3. The company shall review and evaluate the reports received from each participant for the economic development program year and provide a description of the discounts the participant received. This information shall be reported in the utility's annual report to be filed with the Director of the Office of Consumer Education and Advocacy, within 60 days of the end of each program year. The company's report shall state the basis for allowing a participant into a tariff program, the participant's achievements, the cumulative amount of the discounts, and compare the discounts expended to actual achievements or progress made.

II. CANCELLATION

1. Any participant that fails to fulfill the reporting and evaluation requirements described in Section I may be excluded from continued participation in the relevant tariff program and may be excluded from applying under other tariff programs, pending review of its performance.