

May 31, 2005

VIA ELECTRONIC MAIL

Honorable Jaclyn A. Brillling, Secretary  
New York State Public Service Commission  
Three Empire State Plaza  
Albany, NY 12223-1350

Re: Case No. 03-E-1761 – Proceeding on Motion of the Commission to  
Reexamine Policies and Tariffs for Flexible Rate Contract Service to  
Economic Development Customers.

Dear Secretary Brillling:

New York State Electric & Gas Corporation ("NYSEG" or the "Company") hereby submits for filing the following enclosed tariff leaves in compliance with the requirements of the New York Public Service Commission (the "PSC" or the "Commission") as identified herein and Appendix 7-H (electronic tariff filing system) to the Commission's Codes, Rules and Regulations (16 NYCRR Appendix 7-H).

PSC No. 120 – Electricity, Schedule for Electric Service

Leaf No. 305, Revision 1  
Leaf No. 306, Revision 1  
Leaf No. 307, Revision 1  
Leaf No. 308, Revision 1  
Leaf No. 309, Revision 1  
Leaf No. 309.1, Original  
Leaf No. 309.2, Original  
Leaf No. 310, Revision 4  
Leaf No. 311, Revision 1  
Leaf No. 311.1, Original  
Leaf No. 311.2, Original  
Leaf No. 311.3, Original  
Leaf No. 311.4, Original  
Leaf No. 311.5, Original  
Leaf No. 312, Revision 1  
Leaf No. 313, Revision 1  
Leaf No. 314, Revision 1  
Leaf No. 315, Revision 1  
Leaf No. 316, Revision 1  
Leaf No. 317, Revision 1  
Leaf No. 318, Revision 4  
Leaf No. 319, Revision 1  
Leaf No. 320, Original

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Leaf No. 321, Original

Leaf No. 322, Original

Leaf No. 323, Original

Effective: August 29, 2005

In compliance with the Commission's Order Approving Guidelines for Flexible Rate Service Contracts, issued and effective April 14, 2005, in Case No. 03-E-1761 (the "April Order"), NYSEG hereby files revised tariff leaves related to electric flexible rate service as an update to its currently effective electric flexible rate service tariffs: Service Classification No. 13 ("SC 13") and Service Classification No. 14 ("SC 14") of the Company's PSC No. 120 – Electricity tariff.

This filing will update the terms and conditions of electric flexible rate service in light of the restructuring that has taken place in the electric industry. Such terms and conditions will be used to best advance the continued use of Individual Electric Service Agreements to promote economic development in keeping with two important criteria recognized by the PSC: the necessity for attracting or retaining load, and the demonstration of economic benefits to non-participating customers.

### **Background**

The Commission instituted a proceeding on January 12, 2004 to examine its policies regarding Individual Electric Service Agreements considering the changes in the electric industry that have taken place since 1994, when the Commission established the current guidelines for offering flexible rates<sup>1</sup>.

On July 7, 2004, Staff issued a "Straw Proposal for Flex Rate Guidelines" ("Straw Proposal"). Active parties filed comments on August 31, 2004, and reply comments on September 28, 2004. The April Order modifies Staff's Straw Proposal to address concerns raised by the parties in their comments and reply comments.

### **Description of the Proposed Revisions**

The tariff provisions proposed herein are reflective of the Commission's desire to advance the use of flex contracts to promote economic development in keeping with two important criteria recognized by the PSC: the necessity for attracting or retaining load, and the demonstration of economic benefits to non-participating customers.

The April Order provides that a customer seeking a flexible rate contract is required to demonstrate that it has taken reasonable efforts to participate in State or local

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<sup>1</sup> Case No. 93-M-0229, Competitive Opportunities for Electric and Gas Service, Opinion 94-15, issued July 11, 1994.

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economic development programs as a condition of obtaining an Individual Electric Service Agreement with the Company<sup>2</sup>.

Consistent with the guidelines in the April Order, Delivery Rates and Commodity Rates will be separately stated within each Individual Electric Service Agreement that includes both services.

#### Delivery Rates

The new and revised tariff leaves filed herein provide for the development of Delivery Rates within an Individual Electric Service Agreement based on marginal costs plus a contribution towards system costs. Unless an updated marginal cost study is attached to the Individual Electric Service Agreement, the Company's proposal is to use the marginal costs that were used in the development of the Company's most recent Economic Development Zone Incentive ("EDZI") rates, and approved by the Commission, to develop Delivery Rates.

#### Commodity Rates

Detailed tariff language is also added to require that a prospective eligible customer proposing to take service pursuant to an Individual Electric Service Agreement will provide its "pricing objective" needed to attract or retain its load. A potential flex rate customer will be encouraged to obtain commodity from an energy service company ("ESCO"). Furthermore, the proposed tariff provides that a customer may request the Company to facilitate access to market commodity options available from ESCOs by offering the customer assistance with linking such customer with an ESCO that will offer, at a minimum, fixed price commodity for a period of at least six months.

Alternatively, the proposed tariff provides that a customer may choose to have NYSEG provide their electricity supply at the rate for commodity service available in the otherwise applicable service classification(s).

If a customer's pricing objective cannot be met by a combination of the above delivery and commodity offerings and other economic development offers, the Company will evaluate innovative solutions and pursue alternatives in an effort to achieve the customer's pricing objective provided that the commodity is not provided at below cost, the commodity is not drawn from the Company's existing supply portfolio, and the provision of commodity service will not result in an economic detriment to all other customers over the term of the Individual Electric Service Agreement.

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<sup>2</sup> Case No. 03-E-1761 Order Approving Guidelines for Flexible Rate Service Contracts, issued and effective April 14, 2005.

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**Lost Revenue Recovery**

Consistent with its Electric Rate Plan, the Company will track and defer for future recovery as Category 2 Uncontrollable Costs, revenues lost due to Individual Electric Service Agreements entered into pursuant to the revised policies and procedures contained in the April Order and reflected in the tariffs.

Additionally, pursuant to the April Order, any incremental costs incurred in implementing an innovative solution to procure commodity for the purpose of retaining or attracting a customer that are not recovered from the customer or a supplier (*e.g.*, contract damages), will also be deferred for future recovery.

**Newspaper Publication**

The Company requests that the requirement of § 66(12)(b) of the Public Service Law and 16 NYCRR §720-8.1 as to newspaper publication be waived because a customer will be notified of these tariff changes when the customer enters into negotiations for an Individual Electric Service Agreement with the Company.

**Company Contacts**

Please direct any questions pertaining to this filing to Lori Cole at (607) 762-8710 or to me at (607) 762-7341.

Very truly yours,

Christine M. Stratakos  
Manager, Pricing & Analysis

Enclosures