

May 31, 2005

**VIA ELECTRONIC SUBMITTAL**

Honorable Jaclyn A. Brilling  
Secretary  
New York State Public Service Commission  
Three Empire State Plaza  
Albany, New York 12223

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

Dear Secretary Brilling:

The enclosed tariff leaves, issued by Rochester Gas and Electric Corporation ("RG&E" or the "Company"), are transmitted for filing in compliance with the Public Service Commission's ("PSC" or "Commission") Order Approving Guidelines for Flexible Rate Service Contracts, issued and effective April 14, 2005, (the "April Order"), in the above-referenced proceeding. This filing is also made in accordance with Appendix 7-H (electronic tariff filing system) to the Commission's Codes, Rules and Regulations (16 NYCRR Appendix 7-H). The leaves are issued May 31, 2005 to become effective August 29, 2005. See Appendix 1 for an Index of leaves.

RG&E hereby files its revised electric flexible rate service tariffs as an update to its current electric flexible rate service tariffs: Service Classification No. 10 ("SC 10") and Service Classification No. 11 ("SC 11") of the Company's PSC No. 19 – 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.

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

The tariff provisions proposed herein are reflective of the Commission's desire to best advance the use of flexible rate 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 economic development programs prior to requesting 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 Empire Zone Rate ("EZR") 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 seeking 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 services 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 RG&E provide its 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,

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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. p. 16

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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.

**Lost Revenue Recovery**

Discounts and costs associated with Individual Electric Service Agreements entered into pursuant to the revised policies and procedures contained in the April Order and reflected in the tariffs will be recovered in accordance with Section XIX.1.d of RG&E's March 9, 2004 Electric Rate Joint Proposal.

**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 Curt Roney at (585)724-8252 or to me at (585)771-4692.

Very truly yours,

Mark O. Marini  
Manager, Regulatory and Tariffs  
Rates and Regulatory Economics

Enclosures

Effective August 29, 2005						
<b>P S C</b>		<b>Leaf No.</b>	<b>Rev.</b>	<b>Super</b>	<b>Section</b>	<b>Description of Major Changes</b>
<b>19</b>	<b>Electric</b>	<b>215</b>	<b>2</b>	<b>1</b>	<b>SC 10</b>	<b>Flex Rates - Applicable, Delete Determination</b>
<b>19</b>	<b>Electric</b>	<b>216</b>	<b>2</b>	<b>1</b>	<b>SC 10</b>	<b>Flex Rates - Individual Electric Service Agreement</b>
<b>19</b>	<b>Electric</b>	<b>216.1</b>	<b>0</b>	<b>-</b>	<b>SC 10</b>	<b>Flex Rates - Individual Electric Service Agreement</b>
<b>19</b>	<b>Electric</b>	<b>216.2</b>	<b>0</b>	<b>-</b>	<b>SC 10</b>	<b>Flex Rates - Individual Electric Service Agreement</b>
<b>19</b>	<b>Electric</b>	<b>216.3</b>	<b>0</b>	<b>-</b>	<b>SC 10</b>	<b>Flex Rates - Individual Electric Service Agreement</b>
<b>19</b>	<b>Electric</b>	<b>217</b>	<b>1</b>	<b>0</b>	<b>SC 10</b>	<b>Flex Rates - Rates</b>
<b>19</b>	<b>Electric</b>	<b>217.1</b>	<b>0</b>	<b>-</b>	<b>SC 10</b>	<b>Flex Rates - Term</b>
<b>19</b>	<b>Electric</b>	<b>218</b>	<b>2</b>	<b>1</b>	<b>SC 10</b>	<b>Housekeeping</b>
<b>19</b>	<b>Electric</b>	<b>222.1</b>	<b>2</b>	<b>1</b>	<b>SC 10</b>	<b>Flex Rates - Previous SC 10 Tariff</b>
<b>19</b>	<b>Electric</b>	<b>222.2</b>	<b>0</b>	<b>-</b>	<b>SC 10</b>	<b>Flex Rates - Previous SC 10 Tariff</b>
<b>19</b>	<b>Electric</b>	<b>222.3</b>	<b>0</b>	<b>-</b>	<b>SC 10</b>	<b>Flex Rates - Previous SC 10 Tariff</b>
<b>19</b>	<b>Electric</b>	<b>223</b>	<b>2</b>	<b>1</b>	<b>SC 11</b>	<b>Flex Rates - Applicable, Delete Pricing</b>
<b>19</b>	<b>Electric</b>	<b>223.1</b>	<b>0</b>	<b>-</b>	<b>SC 11</b>	<b>Flex Rates - Individual Electric Service Agreement</b>
<b>19</b>	<b>Electric</b>	<b>223.2</b>	<b>0</b>	<b>-</b>	<b>SC 11</b>	<b>Flex Rates - Individual Electric Service Agreement</b>
<b>19</b>	<b>Electric</b>	<b>223.3</b>	<b>0</b>	<b>-</b>	<b>SC 11</b>	<b>Flex Rates - Rates</b>
<b>19</b>	<b>Electric</b>	<b>224</b>	<b>4</b>	<b>2</b>	<b>SC 11</b>	<b>Flex Rates - Term. Delete Option A, Option B, and Service Agreement</b>
<b>19</b>	<b>Electric</b>	<b>225</b>	<b>2</b>	<b>1</b>	<b>SC 11</b>	<b>Flex Rates - Delete Service Agreement</b>
<b>19</b>	<b>Electric</b>	<b>229.1</b>	<b>0</b>	<b>-</b>	<b>SC 11</b>	<b>Flex Rates - Previous SC 11 Tariff</b>
<b>19</b>	<b>Electric</b>	<b>229.2</b>	<b>0</b>	<b>-</b>	<b>SC 11</b>	<b>Flex Rates - Previous SC 11 Tariff</b>