BEFORE THE
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of

Iberdrola SA, New York State Electric & Gas Corporation,
Rochester Gas & Electric Corporation

Case 07-M-0906

January 2008

Prepared Testimony of:

GAS SAFETY PANEL

Steven D. Blaney
Utility Supervisor (Safety)

Christopher R. Stolicky
Utility Engineer 3 (Safety)

State of New York
Department of Public Service
Three Empire State Plaza
Albany, New York 12223-1350

Q. Mr. Blaney, please state your full name and business address.

A. Steven D. Blaney, New York State Department of Public Service, Office of Electric, Gas & Water, Three Empire State Plaza, Albany, New York 12223-1350.

Q. Mr. Blaney, by whom are you employed and in what capacity?

A. I am employed by the Department of Public Service of the State of New York. I am a Utility Supervisor assigned to the Office of Electric, Gas & Water.

Q. Please state your educational background and professional experience.

A. I graduated from Merrimack College in 1982 with a Bachelor's degree in Civil Engineering. I have been employed by the Department of Public Service since that time, holding various positions of increasing responsibility, mostly in the area of gas pipeline safety. I am a licensed Professional Engineer in the State of New York. I am a member of the Gas Piping

Technology Committee, an organization sponsored by the American Gas Association, which publishes guidelines on how to comply with the federal pipeline safety regulations, and also of the Common Ground Alliance's Data Reporting and Evaluation Committee, which collects and analyzes data relating to damages to buried utilities during excavation activities.

Q. Have you previously testified in regulatory proceedings?

A. Yes. I have testified in several previous rate cases, as well as several Article VII proceedings.

Q. Mr. Stolicky, please state your full name and business address.

A. Christopher R. Stolicky, 3 Empire State Plaza, Albany, New York, 12223-1350.

Q. Mr. Stolicky, by whom are you employed and in what capacity?

A. I am employed by the Department of Public Service. I am a Utility Engineer 3 (Safety) assigned to the Office of Electric, Gas & Water,

Safety Section.

Q. Please state your educational background and professional experience.

A. I graduated from Union College in 2000 with a Bachelors degree in Civil Engineering. I received a Masters degree in Business Administration from the University at Albany in 2005. I have been employed by the Department of Public Service since January 2001. I work in the Safety Section and I am familiar with federal and state gas safety pipeline codes, statewide risk-based safety performance measures, and with the operations of the major gas utilities in New York State. My other duties include engineering support for the Safety Section field staff, reviewing possible violations relating to 16 NYCRR Part 753 (damage prevention), participating in rate proceedings and negotiations, reviewing proposed pipeline designs, processing petitions and waivers relating to code compliance matters, and reviewing proposed updates to utility operations

and maintenance procedures. I have also participated in job rotations and work assignments in the Gas Rates and Policy Sections, where I participated in various rate issues and in the review of utility winter supply planning.

Q. Mr. Stolicky, have you previously testified in an administrative proceeding?

A. Yes. I have testified in numerous rate proceedings. Most recent were those of National Fuel Gas Distribution Corporation gas rate case, Case 07-G-0141, and the KeySpan Energy Delivery companies rate and merger proceedings with National Grid, PLC, Cases 06-M-0878, 06-G-1185, and 06-G-1186.

Q. In the Panel's opinion does the petitioner's filing provide customers with operational, reliability or safety benefits beyond those currently provided by the current Energy East, RG&E and NYSE&G corporate structure?

A. No. The petitioner's filing suggests business as usual and provides no specific operational,

reliability or safety benefits that could support a finding that the acquisition is in the public interest.

Q. What is the purpose of your testimony in this proceeding?

A. We recommend certain gas measures that are needed to protect ratepayers, and could provide gas customer benefits, should Iberdrola acquire Energy East and its affiliated local distribution companies (LDCs) NYSEG and RG&E. Specifically, the Commission should enhance gas system safety performance measures to ensure system reliability and safety.

Gas Safety

Q. Does the proposed acquisition provide any incremental safety or operational benefits to rate payers?

A. No. It does not provide any such tangible benefits. The proposal simply claims that international management by Iberdrola and adoption and implementation of best practices known to Iberdrola may benefit NYSEG and RG&E.

Q. What safety or operational measures could be implemented in connection with the proposed acquisition transaction to support a finding that positive benefits for ratepayers are present?

A. We propose updating and enhancing the safety-related performance measures each company has in place under its current rate plan.

Q. What is the purpose of the safety performance recommendations?

A. The purpose of our testimony is to recommend safety performance targets which become incentives for NYSEG and RG&E to maintain and improve specific areas regarding the safety of each gas distribution system. The targets also focus the company's attention to areas widely accepted as of high importance, and help ensure service reliability. The targets are derived from the company's actual levels of historic performance, our knowledge of NYSEG and RG&E, and our experience with other LDCs across the state.

Q. Do the companies currently have safety-related targets in effect?

A. Yes. The Commission adopted the existing rate plans for NYSEG and RG&E in Orders issued in Cases 01-G-1668 and 03-G-0766 respectively, which provide for targets related to infrastructure enhancement, leak management, damage prevention, and emergency response times. The targets continue in effect through 2008, and do continue, to a degree, for each subsequent calendar year unless modified by the Commission.

Q. Did NYSEG and RG&E make any proposal with regard to safety-related issues or targets in its filing?

A. No. There was not a proposal to extend or enhance the current safety-related targets for NYSEG and RG&E in the filing.

Q. Are the current targets adequate?

A. No. They are not. Our testimony will describe the importance of updated safety performance targets and how they should be applied in this proceeding.

Q. Please describe your incentive recommendations related to safety measures, including damage and replacement of leak-prone gas facilities, leak backlogs and response times to customer notification of gas odor complains.

A. The Panel recommends NYSEG and RG&E be required to implement the following safety recommendations and performance measures for calendar year 2008, which would thereafter remain at the 2008 target levels for each subsequent year until the mechanisms recommended in this proceeding are superseded in the future by the Commission:

(1) **Infrastructure Enhancement**

Replacement of Leak-Prone Pipe

For NYSEG, replace, at a minimum, 20 miles of leak-prone main and 2,500 leak-prone services. For RG&E, replace, at a minimum, 20 miles of leak-prone main and 2,000 leak-prone services.

(2) **Leak Management**

For NYSEG, achieve a year-end backlog of

total leaks no greater than 125. For RG&E, achieve a year-end backlog of total leaks no greater than 175.

(3) **Prevention of Excavation Damages**

(a) **Overall Damages**

For NYSEG, maintain a level equal to or below 2.0 excavation damages per 1000 One-Call Tickets.

For RG&E, maintain a level equal to or below 2.5 excavation damages per 1000 One-Call Tickets.

(b) **Damages Due to Mismarks**

For NYSEG, maintain a level equal to or below 0.50 excavation damages due to mismarks per 1000 One-Call Tickets.

For RG&E, maintain a level equal to or below 0.50 excavation damages due to mismarks per 1000 One-Call Tickets.

(c) **Damages Caused by Company Crews and Company Contractors**

For NYSEG, maintain a level equal to or below 0.20 excavation damages

attributable to company and company contractor personnel per 1000 One-Call Tickets.

For RG&E, maintain a level equal to or below 0.20 excavation damages attributable to company and company contractor personnel per 1000 One-Call Tickets.

(4) **Emergency Response**

We recommend that NYSEG and RG&E meet the following targets for response to gas emergencies:

(a) Respond to 75% of all gas leak and odor calls within 30 minutes.

(b) Respond to 90% of all gas leak and odor calls within 45 minutes.

(c) Respond to 95% of all gas leak and odor calls within 60 minutes.

Q. Would you please discuss the Panel's reasons for recommending each of the safety-related performance measures, beginning with infrastructure enhancement?

A. Yes. The infrastructure enhancement measure addresses the removal of pipe that is prone to leakage. The purpose is to eliminate aging pipeline infrastructure that, due to its vulnerability to leaks, presents safety risks. By replacing this pipe with modern materials, public safety and service reliability are improved, and operating and maintenance costs and lost gas are reduced.

Q. Please describe the leak management measure.

A. The leak management measure focuses on the reduction of unrepaired gas leaks. The infrastructure enhancement and leak management measures are complementary, in that reducing the inventory of leak-prone piping over time will lead to reductions in the number of gas leaks requiring investigation, monitoring, and repairs, thereby improving public safety.

Q. Please discuss the prevention of excavation damages measure.

A. This measure aims to reduce the largest cause of gas pipeline failures - damage by excavating

equipment. Reducing these damages will improve public safety as well as improve NYSEG's and RG&E's reliability and cost of service.

Q. Please explain the emergency response measure.

A. The emergency response measure encourages the company to focus on responding to leak and odor calls generated by the public in a timely manner.

Infrastructure Enhancement

Q. Please describe the leak-prone pipe replacement component of the safety performance measure.

A. The initial premise of our recommendation is that both NYSEG and RG&E should continue to replace this type of pipe, but their efforts should be accelerated in comparison to historical replacement rates. The recommendation for the main replacement target represents an approximately one-third increase for both companies. The service line replacement recommendation represents an approximately 18% increase in NYSEG's historical level, and an approximately 50% increase in

RG&E's historical level.

Q. What are the historical pipe replacement levels of NYSEG and RG&E?

A. It is difficult to use average levels for NYSEG because it shifted its pipe replacement focus from completely eliminating its cast iron main to replacing bare steel main in 2006, as a result of Phase 2B of Case 01-G-1668. However, its current target is to replace 15 miles of bare steel main each calendar year, which it accomplished in 2006. RG&E averaged annual main replacement levels of approximately 21 miles per year of leak-prone pipe during the time period of 2004 through November 2007.

Q. What about leak-prone service line replacements?

A. NYSEG has averaged approximately 2,115, and RG&E approximately 1,350, per year, from 2004 through November 2007, respectively. We computed a straight-line projection for calendar year 2007.

Q. Please explain what you mean by "leak-prone" pipe.

A. Leak-prone pipe is generally considered to

consist of steel pipe that is unprotected, cast iron pipe, and some early vintages of plastic pipe that can become brittle.

Q. What is meant by "unprotected?"

A. It means that the pipe lacks cathodic protection from corrosion, a method by which steel pipelines are protected from corrosion. Such unprotected pipe is also referred to as "bare" steel. For our purposes here, bare steel pipe also includes pipe that is ineffectively coated.

Q. How does the bare steel component of the recommended safety measure contribute to the safety of the gas system?

A. Data collected by the Federal Office of Pipeline Safety, as well as our own Department, shows that corrosion is a leading cause of leakage and that bare steel pipe is most susceptible to corrosion.

Q. How does the removal of cast iron pipe add to the safety of the gas system?

A. Due to its physical characteristics, cast iron pipe is more prone to catastrophic failures than

cathodically protected steel pipe and plastic pipe. Small diameter cast iron pipe, defined as 8-inches or less in nominal diameter, is even more prone to structural failure due to brittleness and low beam strength. Removal of this pipe will reduce the potential for leaks and incidents resulting from failures. Cast iron pipe tends to be located in older, more densely populated areas with many enclosed structures and paved areas. These circumstances tend to be more conducive to the below-ground migration of gas across wider areas than would occur in rural areas. The more congested the environment, the greater the risk of fires or explosions. The removal of these leak-prone facilities will also benefit the company and improve public safety by reducing its leak backlog.

Q. What criteria should be used for the removal of leak-prone pipe?

A. We recommend NYSEG and RG&E implement a method to evaluate piping segments based on criteria

such as type of material, cathodic protection, leakage information, and location of pipe in relation to structures where gas could gather if leakage occurs. It should then rank risk, reliability, and economic factors and prioritize segments for replacement. The assigned priority levels should guide NYSEG and RG&E in removing its highest-risk pipe and thereby improve the overall safety of the system through lower leak rates.

Q. Please describe why you are recommending increases in pipe replacement targets for NYSEG and RG&E.

A. The first reason is to encourage the companies to increase efforts to eliminate the pipe that presents the greatest safety risks to the public. In addition, we are advised by the Staff Policy Panel that the proposed acquisition of Energy East by Iberdrola carries similar financial risks similar to the National Grid/ KeySpan merger (see Panel testimony pages xxx). NYSEG and RG&E ratepayers should, therefore, be

afforded protections similar to those required in that merger, by similarly increasing the companies' potential amounts at risk for unsatisfactory safety performance. Finally, we believe that ratepayers should realize a safety benefit from this merger. Eliminating leak-prone pipe reduces operating and maintenance costs, lost and unaccounted for gas, and increases public safety.

Q. How did you arrive at the 20 mile main replacement targets for NYSEG and RG&E?

A. Our proposal would not adversely affect Iberdrola and that the benefits, as previously mentioned, outweigh the relatively small increase in capital investment.

Q. Are you providing rate base treatment for the proposed increase in capital spending for NYSEG and RG&E?

A. No, we are not. Based on historical expenditure levels, our recommended replacement targets would result in a capital spending increase of approximately $1,653,000 for NYSEG, and

$1,638,000 for RG&E. As discussed earlier, this merger should be of benefit to ratepayers and the public. The relative dollar amount of our recommendations is very small compared to the approximately $1 billion that shareholders and company management are slated to receive if the merger is approved.

Q. What is the impact of this recommendation in the current case?

A. In this case, our recommendation is to require each company maintain its historic capability in the replacement of leak-prone pipe, and then accelerate its replacements in order to continue reducing the risk to the public. Also, as we mentioned earlier, fewer leaks lead to reductions in the number of gas leaks requiring investigation, monitoring, and repairs, thereby improving public safety. However, the need to replace leak-prone pipe on a more expedited basis is not dependent on a merger or related to what business entity owns the LDCs.

Leak Management

Q. Please describe the Leak Management performance measure.

A. Our recommendation is that NYSEG and RG&E each achieve a total backlog of leaks equal to or below 125 and 175, respectively, at the end of calendar year 2008. These targets should continue on a year-to-year basis after 2008 until changed by the Commission.

Q. What is the significance of this performance measure?

A. The overall objective of the performance measure is to encourage the company to reduce the number of active gas leaks on its system. Eliminating leaks helps minimize the possibility of an incident involving fire and explosion, reduces the amount of gas the company loses, and reduces operating and maintenance costs. Minimizing unrepaired leaks at year-end requires effort year-round and results in minimizing the hazard to the public during frost conditions, when there is a higher risk of gas migration into

homes because the gas cannot vent to the atmosphere as readily. Therefore, this measure provides an incentive for the Companies to eliminate their leaks and thereby provide a higher level of safety to the public.

Q. How did you determine the leak backlog targets of 125 and 175 for this performance measure?

A. We reviewed the year-end total backlog of leaks submitted by each company for performance measure tracking since 2003. Our analysis is limited through year-end 2006 because calendar year 2007 data will not be available until February 2008. If NYSEG's or RG&E's 2007 leak backlog change substantially from historical performance we reserve the right to adjust our recommendations accordingly in light of assuring that the public receives the best possible effort by the companies in reducing risk. NYSEG's total leak backlog for year-end 2006 was 142; RG&E's was 228. Both companies experienced significant increases in total backlog from year-end 2005; 63% for NYSEG and 55% RG&E.

These increases occurred while the number of actual leaks each company managed to repair fell during 2006. In that year, NYSEG repaired 15% fewer leaks while RG&E repair 18% fewer leaks than the year before.

Q. Please further explain the scenario you are describing.

A. NYSEG repaired 100 fewer leaks during 2006 than it did in 2005. If NYSEG had committed the same effort to performing leak repairs in 2006 as it did in 2005, its total leak backlog could have been approximately 42, rather than 142. RG&E repaired 130 fewer leaks in 2006 than it did in 2005, and under the same scenario, its approximate total leak backlog could have been 98.

Q. Why are you not recommending lower targets based on the description you just provided?

A. Our intent is to encourage the companies to continue working towards reducing and minimizing the number of known leaks on their system as they head into frost season. While there are

variations year-to-year in the number of leak discoveries and weather conditions that can affect repair activity, each company must deliberately work all year long on the scheduling of leak surveys, targeting replacement of the most leak-prone pipe, and consciously performing leak repairs as they are discovered. Our recommended targets take into consideration our knowledge of the companies, each company's performance over the past several years, the amount of leak-prone pipe on each system, and provide a reasonable target reduction over the time period.

Q. Is there anything else you would like to say about the leak management target?

A. Yes. As noted earlier, the leak backlog is correlated to the replacement of higher-risk pipe. When pipe that is more prone to leakage is replaced with modern materials, public safety and service reliability are improved and, for ratemaking purposes, operating and maintenance costs are reduced. Our recommended minimum

replacement target represents a combined 40 miles of leak-prone main and 4,500 of leak-prone services per year being removed from operation. The removal of this pipe should help to reduce leaks occurring on the gas distribution systems.

Damage Prevention

Q. Would you please describe your proposed performance measure recommendations related to prevention of excavation damages?

A. We recommend that NYSEG and RG&E maintain a level equal to or below 2.00 and 2.50 excavation damages per 1000 One-Call Tickets, respectively, during 2008. In conjunction with this level, NYSEG and RG&E should maintain levels equal to or below 0.50, for excavation damages due to mismarks per 1000 One-Call Tickets during 2008. We further recommend that a level equal to or below 0.20 for company and company contractor damages per 1000 One-Call Tickets be implemented for both companies for 2008. All 2008 target levels should continue on a year-to-year basis until changed by the Commission.

Q. What is a "One-Call Ticket?"

A. The Public Service Commission's regulations contained in 16 NYCRR Part 753 - Protection of Underground Facilities - require excavators to make a toll-free call to a "one-call" notification system and provide notice of their intent to perform excavation work. The one-call notification system that covers NYSEG's and RG&E's territory is Dig Safely New York (Dig Safely). Dig Safely takes the pertinent information from the excavator and transmits it to its member utilities that may be affected by the excavation work. Those utilities then mark the location of their affected facilities so the excavator can avoid damaging them. Each incoming call to Dig Safely will generate several outgoing notices to the member utilities such as the gas, electric, telephone, cable, and water companies. A notice received by the utility is referred to as a One-Call ticket.

Q. What is a "mismark?"

A. A mismark occurs when a utility fails to

accurately mark the location of its underground facilities in response to the One-Call ticket. Consistent with the requirements of 16 NYCRR Part 753, Protection of Underground Facilities, for purposes of this performance measure a mismark is considered any instance of damage where the marks are off by more than 2 feet. It should also include any instances of damage where the company fails to mark its facilities at all in response to a properly served notice by an excavator to Dig Safely.

Q. What are damages by "company and company contractors?"

A. These are damages to the company's pipe facilities that are caused by company personnel, or contractors that are operating under the company's direct control.

Q. Why is the Panel recommending different targets for the two companies?

A. We derived the targets based on historical performance, our knowledge of company operations, statewide performance in each

metric, as well as year-to-year average improvements in performance.

Q. Please explain further.

A. We looked at each company individually over the past several years in each area of performance. We then took into consideration the average improvement from year-to-year. Further, we examined the statewide performance in each area. If a company performs worse than the statewide performance level, we typically recommend they improve to at least that level. If a company is performing better than the statewide performance level, we recommend a performance target that generally discourages the company from backsliding, while also providing a reasonable cushion. We also make the assumption that each company works to improve its performance and attempts to avoid performing below its historical capability.

Q. How would these measures benefit public safety?

A. According to state and national statistics, the leading cause of gas pipeline failures and

accidents is third-party construction damage. These damages often cause interruptions of service to customers. They also frequently cause building evacuations and road closures. Explosions and fires are less frequent, but have occurred. Fatalities and injuries due to construction damages are also possible. Therefore, reducing these types of damages clearly improves public safety.

Q. How have NYSEG and RG&E performed in the past?

A. We reviewed each company's performance in these measures over the last four years. For the years 2003, 2004, 2005 and 2006, NYSEG experienced 3.88, 3.97, 3.01, and 1.75 overall damages per 1000 One-Call Tickets, respectively. Through the first three quarters of 2007 its performance has been 2.21. For years 2003, 2004, 2005 and 2006, RG&E experienced 5.35, 3.66, 3.44, and 2.71 overall damages per 1000 One-Call Tickets, respectively. Through the first three quarters of 2007 its performance has been 2.80.

Q. So each company is experiencing overall deteriorating performance from calendar year 2006?

A. Yes.

Q. What about mismark damages?

A. For years 2003, 2004, 2005 and 2006, NYSEG experienced 0.70, 0.84, 0.58, and 0.26 mismark damages per 1000 One-Call Tickets, respectively. Through the first three quarters of 2007 its performance has been 0.38. For years 2003, 2004, 2005 and 2006, RG&E experienced 0.46, 0.46, 0.46 and 0.29 mismark damages per 1000 One-Call Tickets, respectively. Through the first three quarters of 2007 its performance has been 0.40.

Q. So each company is experiencing deteriorating performance in the mismark damage metric from calendar year 2006?

A. Yes.

Q. What about company and company contractor damages?

A. For years 2003, 2004, 2005 and 2006, NYSEG

experienced 0.10, 0.00, 0.08, and 0.08 company and company contractor damages per 1000 One-Call Tickets, respectively. Through the first three quarters of 2007 its performance has been 0.15. For years 2003, 2004, 2005 and 2006, RG&E experienced 0.16, 0.15, 0.25, and 0.14 company and company contractor damages per 1000 One-Call Tickets, respectively. Through the first three quarters of 2007 its performance has been 0.12.

Q. What is the basis for the Panel's proposed targets for this measure?

A. Analysis of the data indicates that overall, mismark and company and company contractor damages have generally improved for each company over the time period analyzed.

As is seen in the data presented above, there can be occasional minor slides in performance. However, each company's deteriorated performance through the first three quarters of 2007 concerns us. Even though each company is currently performing better than the statewide level, our recommendations are intended to

provide an incentive to prevent significant deterioration.

Q. Your proposed targets for mismark damages and company and company contractor damages are higher than each company's current performance. Why are you recommending an improvement in overall damages?

A. As the data presented earlier shows, each company has generally improved since data was tracked beginning in 2003. The actual average annual improvement in total damage performance for NYSEG from 2003 through 2006 was 0.71 damages per 1000 One-Call Tickets. RG&E improved an average of 0.88 damages per 1000 One-Call Tickets over the same period. While it is not possible for the companies to maintain this trend indefinitely, it is unreasonable to expect them to stop improving. Thus, based on NYSEG's and RG&E 2006 performance level, our recommended overall damage targets of 2.00 and 2.50 for calendar year 2008 are reasonable based on the presented data.

Q. What about your recommended targets for mismark damages?

A. Damages caused by mismarks are an area where the companies have greater control and each company has performed equal to and better than the recommended targets over the past four years. Our recommended target of 0.50 damages caused by mismarks allows each company a reasonable cushion before it would experience a regulatory liability adjustment.

Q. Please discuss further the recommended targets for company and company contractor damages?

A. While the companies do not experience as many of these types of damages compared to other causes, this is an area of damage prevention where the companies have direct control. Both companies have experienced some degree of improvement in performance over the past four years. Our recommended target of 0.20 for both companies is above 2006 performance, and the historical performance implies that each company should be able to meet the target. Thus, we believe that

recommending the target of 0.20 is fair and will prevent a reduction in each company's performance. It is also justified in view of public safety.

Q. Is it correct that mismarks and company and company contractor damages are within the control of the company?

A. Yes.

Q. How about overall damages?

A. Damages caused by excavator failure to notify Dig Safely and/or unsafe excavation practices are not totally within the control of the company. However, the companies can minimize these damages by influencing excavator activity through education and outreach efforts to excavators, by continuing to bill excavators for repair costs when the excavator is at fault, and by referring problem contractors to Department of Public Service Staff for possible enforcement activities.

Q. Are "No-Call" damages a component of the overall damages measure?

A. Yes. No call damages are simply instances where no ticket was generated because the excavator did not provide notice of intent to excavate. This metric is part of the overall damages and provides an indication of the general level of awareness excavators have about the one-call notification system.

Q. How does Staff assist in enforcement of damage prevention requirements?

A. The department has been conducting an enforcement program involving collection of penalties for approximately 10 years, largely based on citations issued by Department field staff during investigations of reported damages, incidents and complaints. More recently the program has been expanded by having gas LDCs report all instances of damage due to lack of One-Call notification (no-calls). No-call damages are the most straight-forward violations of NYCRR 753 to enforce, and Staff can process many of these violations without a field investigation. LDC participation takes little

effort and the result is greater enforcement and eventual lower damage rates to pipeline facilities.

Q. Do the recommended targets for overall damages per 1000 One-Call tickets include the mismark and company and company contractor components?

A. Yes.

Q. Why do you recommend that approach?

A. Even if it appears that the targets for mismark and/or company and company contractor damages will not be met, the companies will have an incentive to keep these figures as low as possible because they would still be contributing to the overall damages measure.

Emergency Response

Q. Please describe the Emergency Response performance measures.

A. These measures evaluate company response to gas leak, odor and emergency calls generated by the public and non-company personnel. Each company is required by gas safety regulations to provide a monthly report of the total number of calls

received and responded to during normal business hours, weekdays outside of business hours, and weekends and holidays, and to report response times in intervals of 15 minutes. Data filed in compliance with this requirement, along with the leak management and damage prevention data, is included in the Safety Section's annual Performance Measures Report to the Commission (Case 06-G-0566, Gas Safety Performance Measures Report, issued June 1, 2007). Statewide standards for this performance measure have been jointly established by Staff and utilities as follows:

a) Respond to 75% of all gas leak and odor calls within 30 minutes;

b) Respond to 90% of all gas leak and odor calls within 45 minutes; and

c) Respond to 95% of all gas leak and odor calls within 60 minutes.

Q. Please describe the annual Performance Measures Report.

A. It is an annual report to the Commission that

analyzes gas safety performance for the 11 largest natural gas distribution companies. The report summarizes data and analyzes performance in three areas of gas safety: Damage Prevention, Emergency Response, and Leak Management. It also contains data from subsets of those areas, resulting in a more thorough analysis, and is used as a tool to track and identify company performance in areas identified as high-risk.

Q. What is the significance of the emergency response performance measure?

A. Leaks on house piping and improperly operated or installed appliances pose risks to the general public, as do outside leaks that can result in gas migrating into a building. When calls related to gas odors are received by a utility, service personnel are dispatched on a priority basis. The utility operators are required to maintain a log of these calls that track the elapsed time between the dispatch and arrival time of the service personnel on the scene. The potential for an incident to occur increases as

response time increases. Therefore it is important to minimize response times to gas odor reports.

Q. How have NYSEG and RG&E performed related to this measure?

A. Both companies have adequately met the standard targets explained above. Since each company is currently exceeding the targets, our recommendation of the accepted statewide targets simply encourages it to avoid significant deterioration in performance.

Q. How will the emergency response incentives increase public safety?

A. Because the potential for an incident and physical harm to the general public increases as the company's response time lengthens, it is important to minimize the response times to calls of gas odor and/or gas leaks. While companies recognizes this and dispatch crews in response to calls reporting gas leaks or odors on a priority basis, the incentives encourage

the companies to properly focus their efforts in this area.

Q. Do you have specific recommended rate adjustments that will be assessed for failure to meet the proposed safety performance measures?

A. Yes. We recommend the following adjustments to be assessed in the corresponding rate year derived from the approximate basis point value of $43,000 for NYSEG, and $30,000 for RG&E, as indicated by each measure:

Infrastructure Enhancement - 16 basis points total per LDC

(A) Failure of NYSEG to replace, at a minimum, 20 miles of leak prone pipe during 2008, will result in a pre-tax revenue adjustment owed to ratepayers of $344,000.

Failure of RG&E to replace, at a minimum, 20 miles of leak prone pipe during 2008, will result in a pre-tax revenue adjustment owed to ratepayers of $240,000.

(B) Failure of NYSEG to replace, at a minimum, 2,500 leak prone services during 2008, will

result in a pre-tax revenue adjustment owed to ratepayers of $344,000. yes

Failure of RG&E to replace, at a minimum, 2,000 leak prone services during 2008, will result in a pre-tax revenue adjustment owed to ratepayers of $240,000.

Leak Management - 12 basis points total per LDC

Failure of NYSEG to maintain a level equal to or below 125 total known leaks at year-end 2008 will result in a pre-tax revenue adjustment owed to ratepayers of $516,000.

Failure of RG&E to maintain a level equal to or below 175 total known leaks at year-end 2008 will result in a pre-tax revenue adjustment owed to ratepayers of $360,000.

Prevention of Excavation Damages - 18 basis points total per LDC

Overall Damages (4 basis points)- Failure of NYSEG to remain at or below 2.00 excavation damages per 1000 One-Call Tickets at year-end 2008 will result in a pre-tax revenue adjustment owed to ratepayers of $172,000.

Failure of RG&E to remain at or below 2.50 excavation damages per 1000 One-Call Tickets at year-end 2008 will result in a pre-tax revenue adjustment owed to ratepayers of $120,000.

Damages Due to Mismarks (10 basis points) - Failure of NYSEG to remain at or below 0.50 excavation damages due to mismarks per 1000 One-Call Tickets at year-end 2008 will result in a pre-tax revenue adjustment owed to ratepayers of $430,000.

Failure of RG&E to remain at or below 0.50 excavation damages due to mismarks per 1000 One-Call Tickets at year-end 2008 will result in a pre-tax revenue adjustment owed to ratepayers of $300,000.

Damages Due to Company and Company Contractors (4 basis points) - Failure of NYSEG to remain at or below 0.20 excavation damages due to company and company contractors per 1000 One-Call Tickets at year-end 2008 will result in a pre-tax revenue adjustment owed to ratepayers of $172,000.

Failure of RG&E to remain at or below 0.20 excavation damages due to company and company contractors per 1000 One-Call Tickets at year-end 2008 will result in a pre-tax revenue adjustment owed to ratepayers of $120,000.

Emergency Response to Gas Leak/Odor Calls

As discussed above, the response targets are:

(a) Respond to 75% of all gas leak and odor calls within 30 minutes.

(b) Respond to 90% of all gas leak and odor calls within 45 minutes.

(c) Respond to 95% of all gas leak and odor calls within 60 minutes.

Failure to comply with (a) will result in a regulatory liability of eight basis points, or approximately $344,000 for NYSEG and $240,000 for RG&E.

Failure to comply with (b) will result in a regulatory liability four basis points, or approximately $172,000 for NYSEG and $120,000 for RG&E.

Failure to comply with (c) will result in a

regulatory liability of two basis points, or approximately $86,000 for NYSEG and $60,000 for RG&E.

In addition to the above adjustment levels, we recommend that if approved, at a minimum, the same doubling, tripling, and quadrupling mechanisms adopted by the Commission in the National Grid/Keyspan merger case also be adopted here.

Q. Does the panel propose any other adjustments?

A. Yes. In addition to the Infrastructure Enhancement adjustments above, if the recommended amount of replacement pipe is not met, the amount of rate base allowed for the replacement of that pipe below the target will be deferred for ratepayer benefit in the future.

Q. Why are you not recommending incentive awards for exceeding target levels?

A. All of our recommendations, with the exception of part of the infrastructure enhancement targets, are derived from the expected capability and historical performance of the

companies. The safety-related targets in this testimony reflect efforts the companies should already be making as a matter of course in safely operating their gas distribution systems. We are recommending these targets as a means to provide the ratepayers of NYSEG and RG&E the same, if not improved, levels of safety they currently receive from the companies based on historical trends. Therefore, we believe that recommending incentives for exceeding proposed targets that incorporate each company's existing efforts can not be justified.

Q. Why are your proposed adjustment levels higher than those currently in NYSEG's and RG&E rate plans?

A. There are several reasons we are recommending higher regulatory adjustment amounts. First, the transaction at issue here is an acquisition by a profit-driven foreign entity whose primary purpose is to generate revenue from New York ratepayers. The proposal has virtually no tangible benefits for NYSEG and RG&E customers.

The outcome inherent in these circumstances is the natural progression of a parent company making every attempt to squeeze capital out of its subsidiaries by cutting operational costs in all areas, even when the cost reductions might adversely affect safety and reliability. This is especially true when it is generally anticipated that there will be a negative impact on bond ratings as the result of a transaction, further adversely impacting cash flow. We are advised by the Staff Policy Panel that the proposed acquisition of Energy East by Iberdrola carries these sorts of financial risks, which are similar to those present in the National Grid/Keyspan merger. NYSEG and RG&E ratepayers should, therefore, be afforded protections similar to those adopted in the KeySpan proceeding, by similarly increasing the companies' potential amounts at risk for unsatisfactory performance.

Second, the Commission clearly emphasized in the KeySpan proceeding, which is also an acquisition

by a foreign-based entity, that the safety and reliability risks to ratepayers inherent in such an acquisition are not sufficiently addressed by use of the adjustment amounts that have been the norm in recent rate proceedings. The approximate number of basis points used in the KeySpan merger proceeding are reflected in our proposal herein.

Finally, as indicated earlier under the damage prevention discussion, both companies are already experiencing deteriorating performance in 2007. This clearly amplifies the concern of the potential risk to ratepayers, described above, inherent in this acquisition by an entity from outside of New York State.

Q. Are there any additional recommendations regarding the aforementioned performance incentives?

A. Yes. The Panel recommends that NYSEG and RG&E be required to implement the aforementioned safety recommendations and performance incentives for calendar year 2008 and remain at

the 2008 target levels for each subsequent year until the mechanisms recommended in this proceeding are superseded in the future by the Commission.

Q. Are there any other conditions that the companies should meet pertaining to your safety-related recommendations?

A. Yes, we request that Commission direct NYSEG and RG&E to submit a report to the Director of the Office of Electric, Gas and Water on its performance in the areas of the recommended targets in this testimony within 30 days following the end of each calendar year. In addition, all targets and the application of revenue adjustments for targets that are not achieved should continue on a year-to-year basis until changed by the Commission.

Q. Does this conclude your panel testimony at this time?

A. Yes.