STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Joint Petition of National Grid PLC and KeySpan Corporation for Approval of Stock Acquisition and other Regulatory Authorizations	Case 06-M-0878
Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of The Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York for Gas Service	Case 06-G-1185
Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of KeySpan Gas East Corporation d/b/a KeySpan Energy Delivery Long Island for Gas Service	Case 06-G-1186

DIRECT TESTIMONY AND EXHIBIT OF

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Dated:January 29, 2007
Albany, New York

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1 **INTRODUCTION**

2 Q. Please state your name and title.

3 A. My name is Douglas W. Elfner. I am the Director of Utility Intervention for
4 the New York State Consumer Protection Board ("CPB").

5

6 Q. Dr. Elfner, please summarize your education and employment experience.

7 A. I received a B.A. with honors and distinction in economics and
8 mathematics from the University of Delaware in 1976, and a Ph.D. in
9 Economics from the University of Michigan in 1982. From 1982 through
10 1984 I was an Assistant Professor of Economics at the University of
11 Vermont, where I taught courses in econometrics and microeconomics. I
12 was employed from December 1984 to January 1989 by AT&T in
13 Bedminster, New Jersey, where I held positions of increasing
14 responsibility as an Economist in the Market Analysis and Forecasting
15 organization. My responsibilities included developing revenue and
16 quantity forecasts for existing services; analyzing opportunities for new
17 services and the effects of changing the price and rate structures of
18 existing services; and producing forecasts and market analyses for
19 regulatory purposes.

20 Since January 1989, I have been employed by the New York State
21 Consumer Protection Board. As Director of Utility Intervention, I am

1 responsible for all aspects of analysis, policy development, and advocacy
2 on behalf of New Yorkers regarding the regulation of utilities. I also serve
3 as the CPB's Director of Outreach and am responsible for the CPB's
4 outreach and information programs on all consumer issues.
5 I am a member of Phi Beta Kappa, the American Economic
6 Association and the National Association of Business Economists. I have
7 presented original papers at conferences sponsored by the American
8 Economic Association and the Econometrics Society.
9
10 Q. Have you previously testified before the Commission?
11 A. Yes. I have testified in numerous cases before the New York State Public
12 Service Commission.
13
14 Q. What is the purpose of your testimony?
15 A. In this testimony I provide an overview of the CPB's positions and
16 recommendations in this proceeding and briefly summarize the issues
17 addressed by other CPB witnesses. I also address several revenue
18 requirement and policy issues concerning the stand-alone rate filings for
19 KeySpan Energy Delivery New York ("KEDNY") and KeySpan Energy
20 Delivery Long Island ("KEDLI"; jointly "the Companies").
21

1 My testimony has three main parts. In Part I, I summarize the
2 CPB's position and recommendations in this proceeding and introduce the
3 CPB's other witnesses. In Part II, I address several issues directly
4 affecting the revenue requirement for KEDNY and KEDLI, and in Part III,
5 several policy issues related to the stand-alone rate filings.
6 I expect to submit testimony on February 19, 2007 in which I
7 evaluate the proposed transaction between National Grid plc ("National
8 Grid") and KeySpan Corporation ("KeySpan"; jointly "Petitioners") and the
9 associated ten-year rate plans, assess the impacts of those proposals on
10 consumers and present the CPB's recommendations regarding that
11 proposal.
12
13 Q. Are there any Exhibits associated with your testimony?
14 A. Yes. I have attached Exhibit___(DWE), consisting of 2 schedules.
15 Schedule 1 contains a copy of all responses to information requests that I
16 reference in this testimony.
17
18 **PART I: SUMMARY OF POSITION**
19 Q. Please summarize briefly the stand-alone rate filings.
20 A. On October 3, 2006, KEDNY and KEDLI filed tariffs and testimony
21 supporting their request for delivery rate increases as stand-alone

1 companies of $213 million (9.1%) and $159 million (10.9%), respectively.
2 The Petitioners state that they will withdraw those filings if the Commission
3 approves the proposed Transaction and rate plans.
4
5 Q. Please summarize the CPB's position on the stand-alone rate filings.
6 A. The testimony of CPB witnesses addresses many, but not all, of the
7 revenue requirement and policy issues raised in the stand-alone rate
8 filings by KEDNY and KEDLI. Numerous significant adjustments are
9 required to those filings to reflect reasonable projections and proper
10 ratemaking practices. Overall, those filings substantially overstate the
11 revenue requirements of KEDNY and KEDLI. In addition, the stand-alone
12 filings do not properly address several important policy issues.
13
14 Q. Please identify the other witnesses testifying on behalf of the CPB in this
15 proceeding and the topics they address.
16 A. The CPB is sponsoring the testimony of three witnesses or panels in
17 addition to this testimony. Mr. Hugh Larkin Jr., CPA and Ms. Donna
18 DeRonne, CPA, of Larkin & Associates, PLLC, a Certified Public
19 Accounting and Regulatory Consulting Firm, address numerous revenue
20 requirement issues associated with the stand-alone rate filings. They
21 demonstrate that the Companies have substantially overstated their

1 revenue requirement, particularly in the areas of tax, pension, OPEB and
2 labor expense, and that numerous significant adjustments to the
3 Companies' projections are required.
4 Mr. Tariq N. Niazi, the CPB's Chief Economist, is submitting
5 testimony addressing the rate of return on equity that should be authorized
6 for KEDNY and KEDLI as well as a rate design issue. Mr. Niazi
7 demonstrates that the Companies have significantly overstated their
8 required return on equity and that changes to their proposed rate design
9 are required.
10 Ms. Donna M. DeVito, the CPB's Public Utilities Analyst, testifies
11 concerning the Companies' proposals regarding service quality and
12 financial assistance to low-income customers. She recommends several
13 changes to those proposals to adequately protect consumers.
14
15 **PART II: ISSUES DIRECTLY AFFECTING REVENUE REQUIREMENT**
16 <u>Gas Supply Requirements</u>
17 Q. Please summarize your recommendation regarding the Companies' gas
18 supply requirements.
19 A. The Companies have substantially overstated their gas supply
20 requirements, which has the effect of increasing their revenue

1 requirement. I recommend that the cost of the Companies' 5% peak day
2 reserve margin be removed from rates.
3
4 Q. What is KeySpan's peak day reserve?
5 A. This is surplus capacity and supply maintained by the Company that is
6 over and above its forecast requirements to serve its firm customers under
7 peak day weather conditions. Currently, the reserve is 5%, meaning that
8 KeySpan maintains sufficient capacity and supply to meet 105% of its
9 predicted design day demand.
10
11 Q. Is this reserve necessary?
12 A. No. The weather conditions used by the Company to forecast its peak
13 day requirements are sufficiently extreme in relation to the actual peak
14 days experienced by KeySpan over the last 36 years to assure that
15 forecast peak day sendout inherently includes an adequate reserve for
16 contingencies.
17 According to the Company's response to CPB-210, KeySpan plans
18 for a peak day that has an average temperature of 0º F with a wind speed
19 of 13 mph, and follows a day on which the average temperature was 5º F.
20 Based on data from the thirty-year period ending in 1995, KeySpan
21 estimates that the first parameter, a 0º average temperature, will occur

1 about once every 200 years (CPB-34). In fact, there has been no such
2 day for at least the last 41 years (CPB-190). The coldest recorded daily
3 average temperature during the thirty-six year period from 1970 to the
4 present was 3.5º F which occurred on January 21, 1985 (DPS-182).

5 Maintaining supply to meet the requirements of a day that has not
6 occurred in four decades and is not expected to occur more often than
7 once every 200 years, is sufficiently conservative, particularly when
8 KeySpan is simultaneously urging the Commission to recognize that
9 average temperatures are trending upward (Testimony of Company
10 witness Ms. Jennifer Feinstein, p. 8). Adding 5% on top of the forecast
11 requirement for such a day is completely unreasonable.

12

13 Q. Please explain your statement that the weather conditions used by
14 KeySpan to forecast peak day requirements provide an adequate margin
15 for contingencies.

16 A. KeySpan's equations for calculating gas supply requirements under
17 design day weather conditions, as set forth in CPB-236, generate a
18 forecast load of 1,624,194 Dth, for KEDNY and 589,458 Dth for KEDLI -- a
19 total load of 2,213,652 Dth. Using the same equations, but with an
20 average temperature of 3.5º F rather than 0º F, the formula produces a
21 forecast load of 2,112,490 Dth, a reduction of 101,162 Dth. Thus, by

1 using a zero degree peak day for planning purposes, KeySpan already
2 has a built-in “cushion” of 4.8% beyond its forecast requirements for the
3 coldest day it has experienced in the last 36 years, even when that day is
4 assumed to have all of the other extreme weather characteristics of a
5 peak day. The addition of another 5% reserve on top of that 4.8% is
6 completely unnecessary.
7
8 Q. How does this excess reserve affect ratepayers?
9 A. The fixed rates and charges associated with the supply and capacity
10 contracted by KeySpan to provide the reserve are initially charged to
11 ratepayers under the Company’s Monthly Cost of Gas Adjustment
12 (MCGA). To the extent that the availability of this capacity and supply
13 then enables KeySpan to enter into off-system and capacity release
14 transactions, some portion of the costs may be recovered by customers
15 through their share of any profits generated, which is included in the
16 MCGA as a credit. Nevertheless, it is ratepayers who are ultimately at
17 risk. They pay upfront for capacity they do not need and hope that
18 KeySpan can earn enough from it to pay them back.
19
20 Q. What would you recommend the Commission do about this reserve in the
21 pending rate cases?

1 A. The Commission should simply shift the burden of recovering the cost of
2 the excess reserve from ratepayers to the Company. It can accomplish
3 this by requiring KeySpan to exclude 4.8% of the fixed rates and charges
4 associated with its capacity and supply portfolio from its calculation of the
5 MCGA. This is the proportion of total supply and capacity costs
6 attributable to the peak day reserve (i.e. 5% divided by 105%).

7 The Company would then have two options. It could attempt to
8 shed the excess charges by turning back or permanently releasing
9 capacity and supply, or it could retain the capacity and supply and
10 continue to attempt to recover the cost by utilizing the assets for off-
11 system transactions and/or shorter term releases. These options should
12 permit KeySpan to optimize its portfolio, taking into account the relative
13 values of the assets and the need to plan for foreseeable growth in system
14 load. To the extent capacity and supply retained by the Company
15 becomes necessary for system requirements, the rates and charges
16 associated with it would, of course, be returned to the MCGA. Until that
17 occurs, KeySpan should be permitted to retain any revenue it can
18 generate from the surplus assets.

19

20 Gas Cost Incentive Mechanism

21 Q. Please briefly summarize the utilities' gas cost incentive proposal.

1 A. Although not specifically stated in their testimony, KEDNY and KEDLI
2 apparently propose to retain their existing gas cost incentives, under
3 which the Companies retain 20% of: (1) the margin from sales and
4 transportation services to off-system customers and (2) certain capacity
5 release credits. Those incentives are summarized in the response to DPS
6 49.
7
8 Q. Do you agree that KEDNY and KEDLI should be permitted to continue
9 their existing gas cost incentive mechanisms?
10 A. No, I do not. Many of these provisions have been in place for at least 12
11 years, dating back to approval of a settlement of KEDNY's 1993 rate case
12 (93-G-0941). They are anachronisms that should be scrapped or
13 significantly modified.
14
15 Q. Why is that?
16 A. When this incentive mechanism was established, FERC Order 636 which
17 completed the unbundling of interstate pipeline services was only two
18 years old. Utilities were just beginning to be comfortable with their new
19 obligation to separately contract for and maintain portfolios of gas supply
20 to match their inherited pipeline capacity. Under the circumstances, giving
21 utilities an incentive to experiment and take some risks in order to learn

1 how to get the most out of their holdings for the benefit of ratepayers was
2 quite reasonable.
3 Today, gas supply portfolio management and optimization is not
4 only a normal business practice, it has become a product offered by
5 numerous companies. Niagara Mohawk has an asset manager under
6 contract, as did KeySpan at one time. Markets for pipeline capacity and
7 gas supply are well-developed and readily accessible. For all practical
8 purposes, these gas supply assets are no different than any assets for
9 which a utility is responsible, and their proper management should not
10 require any special incentives. It should be considered an obligation just
11 as the proper management of operation and maintenance expenses has
12 always been.
13
14 Q. What do you recommend?
15 A. I recommend that a reasonable target for off-system transaction margins
16 and capacity release credits be defined and imputed for purposes of
17 calculating the companies' MCGA, without true-up. KeySpan would then
18 have the same incentive for gas supply costs that it has for other
19 expenses – regulatory lag. To the extent it is able to beat the targets, it will
20 be entitled to keep the revenues, subject to any overall earnings sharing
21 mechanism that may be established in these proceedings.

1 Q. Do you have a target in mind?

2 A. Yes. From 2001 through 2005, KEDNY and KEDLI's off-system and
3 capacity release transactions generated $116.8 million and $66.5 million
4 in total margin and credits, respectively. KEDNY's annual margins ranged
5 from a low of $14.6 million to a high of $30.9 million, and KEDLI's annual
6 margins ranged from $8.8 million to $17.9 million. (CPB-211) I
7 recommend that the target initially be set equal to $23.7 million for KEDNY
8 and $13.3 million for KEDLI, representing the average revenue over the
9 five years with the high and low years thrown out.

10

11 Gas Promotional Expense

12 Q. Please summarize KEDNY and KEDLI's proposals regarding gas
13 promotional expenses.

14 A. The utilities conduct sales promotion activities to encourage incremental
15 conversions and retain existing load. KEDNY spent a total of $15.8 million
16 on these activities in the Test Year and proposes to spend $21.7 million in
17 the Rate Year, an increase of 37.3%. KEDLI spent a total of $12.7 million
18 on gas promotion expenses in the Test Year and proposes to spend $18.7
19 million in the Rate Year, an increase of 47.2%. (Testimony of Mr. Robert
20 P. Moore, KEDNY p. 7; KEDLI, p 7)

21

1 Q. What is the CPB's position on these proposals?

2 A. The CPB recommends that rates be established based on forecasts of
3 gas promotional expense that are substantially less than proposed by the
4 Companies. The utilities' proposal does not properly consider the impact
5 of recent changes in natural gas prices and forecasts, nor does it reflect
6 the fact that the Companies are not requesting ratepayer funding for a
7 significant portion of their proposed gas promotional spending under the
8 rate plans associated with their proposed merger with National Grid.

9

10 Q. Please elaborate on your recommendation.

11 A. According to KEDNY and KEDLI, one of the main reasons for their
12 proposed gas marketing programs is to address the "recent rise in natural
13 gas commodity prices to unprecedented levels and the volatility
14 surrounding that price rise." (Testimony of Mr. Moore, KEDNY, p. 4;
15 KEDLI, p. 4) After natural gas prices reached all-time highs of from $14 to
16 $15 per Dth in the winter of 2005-2006, they have declined substantially.
17 Further, NYMEX futures prices indicate that natural gas is expected to be
18 in the range of $8.00 per Dth for the next 12 months, as of the close of
19 trading on January 22, 2007. These recent market prices address the
20 Companies' concern about unprecedented prices and volatility, and

1 substantially reduce the need to conduct promotional activities to address
2 that issue.
3 In addition, under the rate plans associated with the proposed
4 Transaction, KEDNY and KEDLI exclude $6.2 million of gas promotional
5 spending that is included in their stand-alone rate filings. (NYOHA/OHILI-
6 1, 2) This suggests that that the Companies are willing to undertake the
7 $6.2 million in additional gas promotional spending without funding from
8 ratepayers and/or that they do not believe those programs are necessary.
9 For these reasons, the CPB recommends that rates for KEDNY and
10 KEDLI be based on the amount the Companies actually spent in the most
11 recent calendar year, increased by the overall rate of inflation. KEDNY
12 and KEDLI spent an estimated $13.45 million and $12.34 million,
13 respectively, on these activities in 2006, based on actual spending through
14 October 2006 at an annualized rate. (NYOHA/OHILI-4) Projected
15 inflation using the forecasts contained in the Companies' filing
16 (Exhibit___(PJM-10)), is 2.725% for the 15-month period between
17 calendar year 2006 and the Company's rate year. I recommend that rates
18 be set to reflect gas promotional expense of an estimated $13.82 million
19 for KEDNY and $12.68 million for KEDLI, or $7.88 million and $6.02
20 million less than proposed by the Companies. These calculations are
21 shown in Exhibit___(DWE), Schedule 2. These estimates should be

1 updated to reflect the Companies' actual spending through December
2 2006 and the estimates of inflation at the time the Commission's decision
3 is made.
4
5 **PART III: POLICY ISSUES**
6 Q. Please summarize your recommendations regarding other policy issues
7 associated with the stand-alone rate filings.
8 A. The CPB has several concerns with the public policy proposals made in,
9 and omitted from, the stand-alone filings of KEDNY and KEDLI. The
10 Companies propose several initiatives to promote retail energy
11 competition, including an ESCO Referral Program, Customer Outreach
12 and Education regarding retail choice and a Market Expo. I recommend
13 that those programs not be implemented.
14 Several other important policy issues have not been addressed by
15 the Companies in their stand-alone filings, but should be approved by the
16 Commission. In particular, KEDNY and KEDLI should develop new
17 demand-side management programs and a measure to reduce existing
18 disincentives for utilities to encourage conservation. The PSC should also
19 ensure that a Management Audit of KEDNY and KEDLI is conducted, as
20 required by the Public Service Law.
21

1 Promotion of Retail Competition

2 Q. Please summarize the Companies' proposal regarding promotion of
3 competition in retail energy markets.

4 A. KEDNY and KEDLI propose to implement many programs that they assert
5 would promote retail energy competition. KEDNY proposes a Purchase of
6 Receivables ("POR") program, an ESCO Referral Program, extensive
7 Customer Outreach and Education Program for retail choice, and a Market
8 Expo. KEDLI proposes extensive Customer Outreach and Education and
9 a Market Expo as well, but not POR or ESCO Referral programs at this
10 time because of limitations of its current billing system.

11 KEDNY and KEDLI would incur significant costs to develop and
12 implement these programs, including technology costs for KEDNY to
13 implement the ESCO Referral Program, and costs for both Companies to
14 conduct education and outreach programs and Market Expos. The
15 Companies have not quantified those costs. In general, they propose the
16 costs be deferred for future recovery from ratepayers, rather than
17 recovered in base rates or through the discount rate applicable to
18 purchased receivables. Information technology costs associated with
19 KEDNY's proposed POR program are included in its projected revenue
20 requirement. (Testimony of Ms. Nancy C. Cianflone, KEDNY pp. 11 – 12,
21 KEDLI pp. 7 - 10)

1 Q. What is the CPB's position on this proposal?

2 A. The proposal summarized above is, in large part, a request for ratepayers
3 to subsidize the operation of competitive ESCOs, without the support of
4 any study or analysis demonstrating that such ratepayer subsidies are
5 necessary, appropriate and cost effective. Indeed, the proposal is not
6 even accompanied by any estimate of the cost of those programs to
7 ratepayers. Moreover, the effect of the proposed programs will be to
8 foster ESCO reliance on ratepayer-subsidized, utility-provided billing,
9 collection, marketing and customer acquisition activities, thereby
10 discouraging innovation and delaying the realization of the benefits that
11 competition is expected to provide to consumers. Overall, this proposal is
12 not in the public interest and should be rejected.

13 The CPB has supported these types of programs in the past in
14 certain circumstances and with appropriate limitations, as transitional
15 measures aimed at eliminating barriers to competitive retail marketing
16 activities in service territories where ESCOs were absent or inactive. That
17 is clearly not the situation in the service territories where KEDNY and
18 KEDLI operate. According to the Commission's website, in January 2007
19 there were 18 ESCOs actively selling natural gas service to residential
20 customers in KEDNY's territory, 11 in KEDLI's, and many of these
21 companies were offering multiple products.

1 The role of the Commission in fostering competitive retail energy
2 markets should be restricted to eliminating impediments inherent in, or
3 resulting from, the historic system of monopoly franchises and regulation.
4 It is not the job of regulators to develop - and ratepayers should not be
5 required to pay for – long-term programs aimed at reducing costs or risks
6 to businesses that would be present in any competitive environment,
7 whether regulation ever existed or not.

8 The ESCO referral program is a good example of the latter.
9 Marketing and customer acquisition programs are normal business
10 functions that competitive companies in hundreds of industries conduct on
11 their own behalf, either directly or through arm's-length arrangements with
12 other entities. There is no reason why a special program should be
13 created for ESCOs as a quasi-public service provided by utilities and
14 subsidized by ratepayers.

15 Moreover, these subsidy programs can be harmful to individual
16 ESCOs who choose to take risks, pay their stand-alone costs and develop
17 innovative approaches to meet customer needs. These programs create
18 an "unlevel playing field" that disadvantages ESCOs that conduct, and
19 fund, their own advertising, marketing and customer acquisition activities.
20 These subsidy programs thus impede competition and innovation, to the
21 detriment of consumers.

1 Numerous companies are actively competing to make retail energy
2 sales to KEDNY and KEDLI customers in the regulatory environment that
3 currently exists on those systems. Asking ratepayers to provide new
4 subsidies to those Companies simply makes no sense. The CPB
5 recommends that both Companies' proposals that ratepayers fund
6 customer Outreach and Education programs regarding retail competition
7 and Market Expos, be rejected. Similarly, KEDNY's proposal to
8 implement an ESCO Referral program should be rejected, as should its
9 proposal that ratepayers fund information technology costs associated
10 with its POR program. The projected costs of that program should be
11 removed from KEDNY's revenue requirement. We have no objection to
12 KEDNY's proposed POR program if the Company is able to recover all
13 incremental costs, including information technology costs, from ESCOs,
14 without subsidization or guarantee of recovery by ratepayers. We support
15 KEDLI's proposal (Testimony of Ms. Cianflone, pp. 8 – 9) that it not
16 implement a purchase of receivables program at this time.
17
18 <u>Demand Side Management Programs</u>
19 Q. Please summarize the CPB's position on demand-side management
20 ("DSM") programs for KEDNY and KEDLI.

1 A. KEDNY's and KEDLI's stand-alone rate filings are silent on the issue of
2 DSM programs. However, those programs are discussed at length in the
3 Petitioners' testimony regarding the proposed Transaction. The CPB
4 recommends that the PSC adopt, as part of its decision in the stand-alone
5 rate cases, DSM programs of the type and scope proposed by the
6 Petitioners in their merger filing.
7
8 Q. Please summarize those proposals.
9 A. The Petitioners in the merger proceeding propose to implement new DSM
10 programs based on successful energy efficiency programs offered by
11 KeySpan utilities in other states. Those programs would include services
12 for residential, multifamily, commercial and industrial and low-income
13 customers. Annual budgets for these programs would total $20 million for
14 KEDNY and $10 million for KEDLI, after a phase-in period. Funding would
15 be through a System Benefits Charge ("SBC") program for gas utilities if
16 so authorized by the Commission, or alternatively, by ratepayers through
17 deferrals to the Balancing Accounts. (Joint Petition, Testimony of Mr.
18 Bruce A. Johnson, pp. 2 – 8)
19
20
21

1 Q. What is the CPB's position on that proposal?

2 A. The CPB fully supports, in concept, a portfolio of cost-effective DSM
3 programs for KEDNY and KEDLI customers, whether through an SBC
4 program implemented by NYSERDA, and/or through appropriate utility-
5 based programs that are coordinated with NYSERDA. We commend
6 KeySpan for their successful DSM programs in other states and their
7 proposal to provide the benefit of those programs to KEDNY and KEDLI if
8 the proposed Transaction is approved.

9 In the CPB's view, programs of that type should be an integral part
10 of any rate plan for KEDNY and KEDLI, whether or not the proposed
11 Transaction is approved. KeySpan is perfectly capable of applying the
12 knowledge and experience it has gained from its DSM programs in other
13 jurisdictions to KEDNY and KEDLI without the help of National Grid. We
14 note that in response to an Information Request, the Companies stated
15 that they now propose to offer the DSM programs, assuming rate
16 recovery, whether or not the merger is approved. (DPS-285(7))

17 At this time, however, the CPB has not determined whether we fully
18 support all parameters of the proposed DSM programs in the Petitioners'
19 testimony, including the annual budgets, ramp-up period, required benefit-
20 cost ratios and allocation of total program resources to individual
21 initiatives. Based on our review of limited information in the Company's

1 merger filing and its responses to information requests, it appears to CPB
2 that the proposed budget is reasonable and that the proposed ramp-up
3 period could be accelerated based on the Company's expertise in
4 implementing these programs in other states. Regarding the individual
5 initiatives, the Company has not yet determined whether the energy
6 efficiency programs it adopted in New England are easily applied to New
7 York State, and has stated that it "plans to continue to engage interested
8 parties in a collaborative dialog" regarding these issues. (DPS-285(4))
9 The CPB recommends that KEDNY and KEDLI implement DSM
10 programs of the type they proposed in the merger Joint Petition,
11 regardless of whether the proposed Transaction is approved. The specific
12 parameters of those programs should be determined collaboratively as
13 soon as possible, with careful consideration given to the role of
14 NYSERDA, the relationship of proposed programs for natural gas with
15 existing programs for electric service for what may be the same
16 customers, and appropriate safeguards to help ensure that scarce
17 ratepayer funds are used in an efficient and cost-effective manner. The
18 Commission should set a firm and expedited schedule for these and new
19 DSM programs to be implemented.
20
21

1 Disincentives for Utilities to Encourage Conservation

2 Q. Please summarize the CPB's proposals regarding existing disincentives
3 for utilities to encourage conservation.

4 A. The Commission has recognized that utilities have an economic
5 disincentive to implement energy efficiency programs, such as the DSM
6 programs discussed above, and it is currently considering measures to
7 address this issue in Cases 03-E-0640 and 06-G-0746. The CPB
8 recommends that a revenue decoupling mechanism that addresses our
9 concerns, be developed for KEDNY and KEDLI as part of this proceeding
10 regardless of whether the proposed Transaction is approved.

11

12 Q. What have KEDNY and KEDLI proposed regarding this issue?

13 A. KEDNY and KEDLI's stand-alone rate filings are silent on this issue.
14 However, in the merger phase of these proceedings, the Petitioners have
15 recommended that this problem be addressed, but have not included a
16 detailed proposal in their filings. They propose instead to "begin" to
17 address these issues through "a combination of incentives, rate design,
18 and revenue decoupling." (Joint Petition, Testimony of Mr. Reilly and Mr.
19 Zelkowitz, p. 27)

20

21

1 Q. Please elaborate on the CPB's position regarding revenue decoupling.

2 A. The CPB continues to recommend that the Commission approve the
3 implementation of an appropriate revenue decoupling mechanism for
4 energy utilities, but such mechanisms must be correctly designed to serve
5 the best interests of consumers. For example, measures that place undue
6 reliance on shifting recovery of utility delivery revenue from volumetric to
7 fixed charges would have the undesired effect of diminishing consumers'
8 incentive to adopt energy efficiency measures and may have substantial
9 negative customer bill impacts. Similarly, an overly-broad decoupling
10 mechanism that shifts from utilities to consumers, the risk of profit losses
11 from factors such as general economic downturns and/or a decline in the
12 number of customers, would not be in consumers' interest. The CPB's
13 detailed recommendations to address utility disincentives against the
14 promotion of energy efficiency, renewable technologies and distributed
15 generation are contained in our August 28, 2006 Initial Comments in
16 Cases 03-E-0640 and O6-G-0746.

17 The appropriate resolution of this issue is not contingent upon
18 approval of the proposed Transaction. The CPB recommends that an
19 appropriate revenue decoupling mechanism be developed for KEDNY and
20 KEDLI regardless of whether the proposed Transaction is approved. The

1 Commission should ensure that specific parameters of that mechanism
2 are determined as part of this proceeding as soon as is practical.
3
4 Management Audit
5 Q. What is the CPB's recommendation regarding a Management Audit for
6 KEDNY and KEDLI?
7 A. The Public Service Law ("PSL") requires the Department of Public Service
8 to conduct or oversee management and operations audits of gas
9 corporations such as KEDNY and KEDLI at least once every five years.
10 By law, these audits must include, but are not limited to, "an investigation
11 of the company's construction program planning in relation to the needs of
12 its customers for reliable service and an evaluation of the efficiency of the
13 company's operations." (PSL §66(19)) However, a formal audit of
14 KEDNY or KEDLI has not been conducted in at least 10 years. In
15 addition, the CPB is not aware of any studies or evaluations conducted by
16 DPS Staff or on its behalf since the last audit, which may have reasonably
17 substituted for the formal audit required by the PSL.
18 The CPB recommends that the PSC initiate an audit of KEDNY and
19 KEDLI, pursuant to PSL §66(19), as part of its Order in the stand-alone
20 rate filings. The Commission should also ensure that the
21 recommendations from the audit that it finds necessary and reasonable,

1 are implemented by the Companies as soon as possible. We recommend
2 that the Audit focus on construction program planning in relation to the
3 needs of KEDNY and KEDLI customers for reliable service and, for the
4 reasons explained by CPB witnesses Mr. Larkin and Ms. DeRonne, on the
5 appropriateness of the costs being charged and allocated to KEDNY and
6 KEDLI from various KeySpan Service Companies. The utilities should be
7 permitted to recover the reasonable costs of the Audit through a balancing
8 account, and not in base rates, due to their one-time nature.
9
10 Q. Does this conclude your testimony?
11 A. Yes, at this time.

EXHIBIT