

# RULE MAKING ACTIVITIES

Each rule making is identified by an I.D. No., which consists of 13 characters. For example, the I.D. No. AAM-01-96-00001-E indicates the following:

AAM -the abbreviation to identify the adopting agency  
01 -the *State Register* issue number  
96 -the year  
00001 -the Department of State number, assigned upon receipt of notice.  
E -Emergency Rule Making—permanent action not intended (This character could also be: A for Adoption; P for Proposed Rule Making; RP for Revised Rule Making; EP for a combined Emergency and Proposed Rule Making; EA for an Emergency Rule Making that is permanent and does not expire 90 days after filing.)

Italics contained in text denote new material. Brackets indicate material to be deleted.

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## Department of Agriculture and Markets

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### NOTICE OF ADOPTION

#### Spotted Lanternfly (“SL”)

**I.D. No.** AAM-41-18-00001-A

**Filing No.** 9

**Filing Date:** 2019-01-08

**Effective Date:** 2019-01-23

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Addition of Part 142 to Title 1 NYCRR.

**Statutory authority:** Agriculture and Markets Law, sections 18, 164 and 167

**Subject:** Spotted Lanternfly (“SL”).

**Purpose:** To prevent SL-infested articles originating in or moving through areas in other states where SL is present from entering NYS.

**Text of final rule:** 1 NYCRR is amended by adding thereto a new Part 142, to read as follows:

**PART 142. EXTERIOR QUARANTINE OF SPOTTED LANTERNFLY (LYCORMA DELICATULA)**

§ 142.1 Definitions.

For this Part, the following words, names and terms shall be construed respectively, to mean:

(a) *AML*. The Agriculture and Markets Law.

(b) *Certificate of inspection*. A valid form issued by the certifying authority of a state, certifying that a regulated article may be moved into the State of New York, pursuant to the provisions of this Part.

(c) *Certifying Authority*. A State Plant Regulatory Official (SPRO) or an individual authorized by a SPRO to issue a certificate of inspection.

(d) *Commissioner*. The Commissioner of the Department of Agriculture and Markets of the State of New York, or his or her duly authorized representative.

(e) *DEC*. The Department of Environmental Conservation of the State of New York.

(f) *Department*. The Department of Agriculture and Markets of the State of New York.

(g) *Firewood*. Wood, cut or not cut, split or not split, regardless of length, which is either in a form and size appropriate for use as fuel, or intended for use as fuel. Firewood does not include: (1) kiln dried dimensional lumber; (2) wood that has been chipped; and (3) logs or wood being transported to or possessed by the following operations and facilities for use in their primary manufacturing process:

(i) sawmills for dimensional lumber;

(ii) pulp and/or paper mills;

(iii) wood pellet manufacturing facilities;

(iv) plywood manufacturing facilities;

(v) wood biomass-using refineries or power plants;

(vi) re-constituted wood or wood composite product manufacturing plants; and

(vii) facilities treating firewood in accordance with Department regulations.

(h) *Inspector*. An inspector of the Department, or cooperator from DEC or the United States Department of Agriculture (USDA), when authorized by the Department to act in that capacity.

(i) *Move; movement*. Shipped, offered or received for shipment, carried, transported, or relocated into or through any area of the State of New York.

(j) *Nursery stock*. All trees, shrubs, plants, vines, and parts thereof.

(k) *Person*. An individual, organization, corporation or partnership, public authority, county, town, village, city, municipal agency or public corporation, or any other legal entity other than the DEC or the Department and its respective authorized agents.

(l) *Spotted lanternfly or SLF*. The insect known as Spotted lanternfly, *Lycorma delicatula*, in any life stage.

(m) *State*. One of the fifty constituent political entities of the United States.

(n) *Regulated Article*. An article listed in Section 142.3 of the Part.

§ 142.2 Quarantine area.

The quarantine area consists of the following counties:

(a) In the Commonwealth of Pennsylvania, the counties of Berks, Bucks, Carbon, Chester, Delaware, Lancaster, Lebanon, Lehigh, Monroe, Montgomery, Northampton, Philadelphia, and Schuylkill.

(b) In the Commonwealth of Virginia, the county of Frederick.

(c) In the State of New Jersey, the counties of Hunterdon, Mercer, and Warren.

(d) In the State of Delaware, the county of New Castle.

§ 142.3 Regulated articles.

The following articles are regulated when originating from, located within, or moved through the area as described in Section 142.2 of this Part:

(a) Any living life stage of the Spotted lanternfly.

(b) Brush, debris, bark, or yard waste.

(c) Landscaping, remodeling, or construction waste.

(d) Logs, stumps, or any tree parts.

(e) Firewood of any species.

(f) Packing materials, such as wood crates or boxes.

(g) All plants and plant parts including, but not limited to, nursery stock, green lumber, fruit and produce, and other material living, dead, cut, fallen (including stumps), roots, branches, mulch, and composted and uncomposted chips.

(h) Outdoor household articles, including, but not limited to, recreational vehicles, lawn tractors and mowers, mower decks, grills, grill and furniture covers, tarps, mobile homes, tile, stone, deck boards, mobile fire pits, and any equipment associated therewith, and trucks or vehicles not stored indoors.

(i) Any other article, commodity, item, or product that has or that is reasonably believed to be infested with or harboring Spotted lanternfly.

§ 142.4 Restrictions on movement of regulated articles originating from or moved through a quarantine area, into the State of New York.

(a) No person shall move a regulated article that has originated from a quarantine area into the State of New York unless:

(1) such regulated article is accompanied by a certificate of inspection or will be moved into the State of New York for experimental or scientific purposes, on such conditions and under such safeguards as may be prescribed in writing by the Department; and

(2) such regulated article has been loaded, handled, or shipped in a manner reasonably designed to prevent it from becoming infested with or harboring Spotted lanternfly; and

(3) the regulated article is accompanied by a waybill that sets forth its point of origin and intended destination.

(b) No person shall move a regulated article that has not originated from a quarantine area but has moved through a quarantine area, into the State of New York unless:

(1) such regulated article is accompanied by a waybill that sets forth its point of origin and intended destination; and

(2) such regulated article has moved directly through a quarantine area without stopping except for refueling and traffic conditions.

§ 142.5 Conditions governing the issuance of a certificate of inspection.

(a) The Department will not accept or recognize a certificate of inspection, nor a substantially revised certificate of inspection, unless a copy thereof is furnished to the Department for its approval, prior to use.

(b) The Department will not accept or recognize a certificate of inspection unless the certificate of inspection provides, and clearly and convincingly indicates, that:

(1)(i) The regulated article has been inspected and found to be free of Spotted lanternfly; or (ii) the regulated article has been treated, fumigated, or processed by an approved method; or (iii) the regulated article has been grown, produced, manufactured, stored, or handled in such a manner that it would be free of Spotted lanternfly; and

(2) The regulated article is eligible for unrestricted movement under all other state plant quarantines and regulations.

§ 142.6 Inspection and disposition of shipments.

(a) The Department may inspect any container, conveyance, package, or vehicle reasonably believed to contain a regulated article.

(b) When a regulated article has been moved into the State of New York in violation of the provisions of this Part, an inspector may take such action as deemed necessary to eliminate the danger of introduction and/or spread of the Spotted lanternfly.

(c) If a regulated article is found to be infested with or harboring Spotted lanternfly, such regulated article must be rendered free of infestation without cost to the State of New York.

§ 142.7 Other laws and regulations.

No provision of this Part relieves any person from the obligation to comply with any other applicable federal, state, county, regional, or local law or regulation.

**Final rule as compared with last published rule:** Nonsubstantive changes were made in sections 142.1(j) and 142.3(g).

**Text of rule and any required statements and analyses may be obtained from:** Christopher Logue, Director, Division of Plant Industry, Agriculture and Markets, 10B Airline Drive, Albany, NY 12235, (518) 457-2087, email: christopher.logue@agriculture.ny.gov

**Revised Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Changes do not affect the Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis or Job Impact Statement.

#### **Initial Review of Rule**

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2022, which is no later than the 3rd year after the year in which this rule is being adopted.

#### **Assessment of Public Comment**

The deadline for submitting comments was December 10, 2018. On December 7, 2018, the Department received a letter from the New York Farm Bureau and, on December 10, 2018, the Department received a letter from the Empire State Forest Products Association; each such organization indicated approval of adoption of the proposed rule.

## Department of Financial Services

### EMERGENCY RULE MAKING

#### Registration and Financial Responsibility Requirements for Mortgage Loan Servicers

**I.D. No.** DFS-04-19-00001-E

**Filing No.** 1

**Filing Date:** 2019-01-02

**Effective Date:** 2019-01-02

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Addition of Part 418, Supervisory Procedures MB 109 and 110 to Title 3 NYCRR.

**Statutory authority:** Banking Law, art. 12-D

**Finding of necessity for emergency rule:** Preservation of general welfare.

**Specific reasons underlying the finding of necessity:** Chapter 472 of the Laws of 2008, which requires mortgage loan servicers to be registered with the Superintendent of Financial Services, went into effect on July 1, 2009. These regulations implement the registration requirement and inform servicers of the details of the registration process so applicants can prepare, submit and review applications for registrations on a timely basis.

Excluding persons servicing loans made under the Power New York Act from the mortgage loan servicer rules is necessary to facilitate the implementation of such loan program so that the anticipated energy efficiency benefits can be realized without undue regulatory burden.

The timely registration of mortgage loan servicers and the granting of exemptions from registration, as applicable, are necessary to protect both borrowers and other participants in the home mortgage lending market. Accordingly, it is imperative that Part 418 of the Superintendent's Regulations and Supervisory Procedures MB 109 and MB 110 be promulgated on an emergency basis for the public's general welfare.

**Subject:** Registration and Financial Responsibility Requirements for Mortgage Loan Servicers.

**Purpose:** To require that persons or entities which service mortgage loans on residential real property on or after July 1, 2009 be registered with the Superintendent of Financial Services (formerly the Superintendent of Banks).

**Substance of emergency rule (Full text is posted at the following State website: <http://www.dfs.ny.gov/legal/regulations/emergency/banking/emergbanking.htm>):** Section 418.1 summarizes the scope and application of Part 418. It notes that Sections 418.2 to 418.11 implement the requirement in Article 12-D of the Banking Law that certain mortgage loan servicers ("servicers") be registered with the Superintendent of Financial Services (formerly the Superintendent of Banks), while Sections 418.12 and 418.13 set forth financial responsibility requirements that are applicable to both registered and exempt servicers. {Section 418.14 sets forth the transitional rules.}

Section 418.2 implements the provisions in Section 590(2)(b-1) of the Banking Law requiring registration of servicers and exempting mortgage bankers, mortgage brokers, and most banking and insurance companies, as well as their employees. Servicing loans made pursuant to the Power New York Act of 2011 is excluded. The Superintendent is authorized to approve other exemptions.

Section 418.3 contains a number of definitions of terms that are used in Part 418, including "Mortgage Loan", "Mortgage Loan Servicer", "Third Party Servicer" and "Exempted Person".

Section 418.4 describes the requirements for applying for registration as a servicer.

Section 418.5 describes the requirements for a servicer applying to open a branch office.

Section 418.6 covers the fees for application for registration as a servicer, including processing fees for applications and fingerprint processing fees.

Section 418.7 sets forth the findings that the Superintendent must make to register a servicer and the procedures to be followed upon approval of an application for registration. It also sets forth the grounds upon which the Superintendent may refuse to register an applicant and the procedure for giving notice of a denial.

Section 418.8 defines what constitutes a "change of control" of a

servicer, sets forth the requirements for prior approval of a change of control, the application procedure for such approval and the standards for approval. The section also requires servicers to notify the Superintendent of changes in their directors or executive officers.

Section 418.9 sets forth the grounds for revocation of a servicer registration and authorizes the Superintendent, for good cause or where there is substantial risk of public harm, to suspend a registration for 30 days without a hearing. The section also provides for suspension of a servicer registration without notice or hearing upon non-payment of the required assessment. The Superintendent can also suspend a registration when a servicer fails to file a required report, when its surety bond is cancelled, or when it is the subject of a bankruptcy filing. If the registrant cures the deficiencies its registration can be reinstated. The section further provides that in all other cases, suspension or revocation of a registration requires notice and a hearing.

The section also covers the right of a registrant to surrender its registration, as well as the effect of revocation, termination, suspension or surrender of a registration on the obligations of the registrant. It provides that registrations will remain in effect until surrendered, revoked, terminated or suspended.

Section 418.10 describes the power of the Superintendent to impose fines and penalties on registered servicers.

Section 418.11 sets forth the requirement that applicants demonstrate five years of servicing experience as well as suitable character and fitness.

Section 418.12 covers the financial responsibility and other requirements that apply to applicants for servicer registration, registered servicers and exempted persons (other than insured depository institutions to which Section 418.13 applies). The financial responsibility requirements include a required net worth (as defined in the section) of at least \$250,000 plus 1/4 % of total loans serviced or, for a Third Party Servicer, 1/4 of 1% of New York loans serviced; (2) a corporate surety bond of at least \$250,000 and (3) a Fidelity and E&O bond in an amount that is based on the volume of New York mortgage loans serviced, with a minimum of \$300,000.

The Superintendent is empowered to waive, reduce or modify the financial responsibility requirements for certain servicers who service an aggregate amount of loans not exceeding \$4,000,000.

Section 418.13 exempts from the otherwise applicable net worth and surety bond requirements, but not the Fidelity and E&O bond requirements, entities that are subject to the capital requirements applicable to insured depository institutions and that are considered at least adequately capitalized.

Section 418.14 provides a transitional period for registration of mortgage loan servicers. A servicer doing business in this state on June 30, 2009 which files an application for MLS registration by July 31, 2009 will be deemed in compliance with the registration requirement until notified that its application has been denied. A person who is required to register as a servicer solely because of the changes in the provisions of the rule regarding use of third party servicers which became effective on August 23, 2011 and who files an application for registration within 30 days thereafter will not be required to register until six months from the effective date of the amendment or until the application is denied, whichever is earlier.

Section 109.1 defines a number of terms that are used in the Supervisory Procedure.

Section 109.2 contains a general description of the process for registering as a mortgage loan servicer ("servicer") and contains information about where the necessary forms and instructions may be found.

Section 109.3 lists the documents to be included in an application for servicer registration, including the required fees. It also sets forth the execution and attestation requirements for applications. The section makes clear that the Superintendent of Financial Services (formerly the Superintendent of Banks) can require additional information or an in person conference, and that the applicant can submit additional pertinent information.

Section 109.4 describes the information and documents required to be submitted as part of an application for registration as a servicer. This includes various items of information about the applicant and its regulatory history, if any, information demonstrating compliance with the applicable financial responsibility and experience requirements, information about the organizational structure of the applicant, and other documents, such as fingerprint cards and background reports.

Section 110.1 defines a number of terms that are used in the Supervisory Procedure.

Section 110.2 contains a general description of the process for applying for approval of a change of control of a mortgage loan servicer ("servicer") and contains information about where the necessary forms and instructions may be found.

Section 110.3 lists the documents to be included in an application for approval of a change of control of a servicer, including the required fees. It sets forth the time within which the Superintendent of Financial Ser-

vices (formerly the Superintendent of Banks) must approve or disapprove an application. It also sets forth the execution and attestation requirements for applications. The section makes clear that the Superintendent can require additional information or an in person conference, and that the applicant can submit additional pertinent information. Last, the section lists the types of changes in a servicer's operations resulting from a change of control which should be notified to the Department of Financial Services (formerly the Banking Department).

Section 110.4 describes the information and documents required to be submitted as part of an application for approval of a change of control of servicer. This includes various items of information about the applicant and its regulatory history, if any, information demonstrating continuing compliance with the applicable financial responsibility and experience requirements, information about the organizational structure of the applicant, a description of the acquisition and other documents regarding the applicant, such as fingerprint cards and background reports.

*This notice is intended* to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the *State Register* at some future date. The emergency rule will expire April 1, 2019.

*Text of rule and any required statements and analyses may be obtained from:* George Bogdan, Department of Financial Services, One State Street, New York, NY 10004-1417, (212) 480-4758, email: george.bogdan@dfs.ny.gov

#### **Regulatory Impact Statement**

##### **1. Statutory Authority.**

Article 12-D of the Banking Law, as amended by the Legislature in the Subprime Lending Reform Law (Ch. 472, Laws of 2008, hereinafter, the "Subprime Law"), creates a framework for the regulation of mortgage loan servicers. Mortgage loan servicers (MLS) are individuals or entities which engage in the business of servicing mortgage loans for residential real property located in New York. That legislation also authorizes the adoption of regulations implementing its provisions. (See, e.g., Banking Law Sections 590(2)(b-1) and 595-b.)

Subsection (1) of Section 590 of the Banking Law was amended by the Subprime Law to add the definitions of "mortgage loan servicer" and "servicing mortgage loans". (Section 590(1)(h) and Section 590(1)(i).)

A new paragraph (b-1) was added to Subdivision (2) of Section 590 of the Banking Law. This new paragraph prohibits a person or entity from engaging in the business of servicing mortgage loans without first being registered with the Superintendent of Financial Services (formerly the Superintendent of Banks). The registration requirements do not apply to an "exempt organization," licensed mortgage banker or registered mortgage broker.

This new paragraph also authorizes the Superintendent to refuse to register an MLS on the same grounds as he or she may refuse to register a mortgage broker under Banking Law Section 592-a(2).

Subsection (3) of Section 590 was amended by the Subprime Law to clarify the power of the banking board to promulgate rules and regulations and to extend the rulemaking authority regarding regulations for the protection of consumers and regulations to define improper or fraudulent business practices to cover mortgage loan servicers, as well as mortgage bankers, mortgage brokers and exempt organizations. (Note that under Section 89 of Part A of Chapter 62 of the Laws of 2011, the functions and powers of the banking board have been transferred to the Superintendent.)

New Paragraph (d) was added to Subsection (5) of Section 590 by the Subprime Law and requires mortgage loan servicers to engage in the servicing business in conformity with the Banking Law, such rules and regulations as may be prescribed by the Superintendent, and all applicable federal laws, rules and regulations.

New Subsection (1) of Section 595-b was added by the Subprime Law and requires the Superintendent to promulgate regulations and policies governing the grounds to impose a fine or penalty with respect to the activities of a mortgage loan servicer. Also, the Subprime Law amends the penalty provision of Subdivision (1) of Section 598 to apply to mortgage loan servicers as well as to other entities.

New Subdivision (2) of Section 595-b was added by the Subprime Law and authorizes the Superintendent to prescribe regulations relating to disclosure to borrowers of interest rate resets, requirements for providing payoff statements, and governing the timing of crediting of payments made by the borrower.

Section 596 was amended by the Subprime Law to extend the Superintendent's examination authority over licensees and registrants to cover mortgage loan servicers. The provisions of Banking Law Section 36(10) making examination reports confidential are also extended to cover mortgage loan servicers.

Similarly, the books and records requirements in Section 597 covering licensees, registrants and exempt organizations were amended by the Subprime Law to cover servicers and a provision was added authorizing

the Superintendent to require that servicers file annual reports or other regular or special reports.

The power of the Superintendent to require regulated entities to appear and explain apparent violations of law and regulations was extended by the Subprime Law to cover mortgage loan servicers (Subdivision (1) of Section 39), as was the power to order the discontinuance of unauthorized or unsafe practices (Subdivision (2) of Section 39) and to order that accounts be kept in a prescribed manner (Subdivision (5) of Section 39).

Finally, mortgage loan servicers were added to the list of entities subject to the Superintendent's power to impose monetary penalties for violations of a law, regulation or order. (Paragraph (a) of Subdivision (1) of Section 44).

The fee amounts for MLS registration applications and for MLS branch applications are established in accordance with Banking Law Section 18-a.

## 2. Legislative Objectives.

The Subprime Law is intended to address various problems related to residential mortgage loans in this State. The Subprime Law reflects the view of the Legislature that consumers would be better protected by the supervision of mortgage loan servicing. Even though mortgage loan servicers perform a central function in the mortgage industry, there had previously been no general regulation of servicers by the state or the Federal government.

The Subprime Law requires that entities be registered with the Superintendent in order to engage in the business of servicing mortgage loans in this state. The law further requires mortgage loan servicers to engage in the business of servicing mortgage loans in conformity with the rules and regulations promulgated by the Superintendent.

The mortgage servicing statute has two main components: (i) the first component addresses the registration requirement for persons engaged in the business of servicing mortgage loans; and (ii) the second authorizes the Superintendent to promulgate appropriate rules and regulations for the regulation of servicers in this state.

The regulations implement the first component of the mortgage servicing statute – the registration of mortgage servicers. In doing so, the rule utilizes the authority provided to the Superintendent to set standards for the registration of such entities. For example, the rule requires that a potential loan servicer would have to provide, under Sections 418.11 to 418.13 of the proposed regulations, evidence of their character and fitness to engage in the servicing business and demonstrate to the Superintendent their financial responsibility. The rule also utilizes the authority provided by the Legislature to revoke, suspend or otherwise terminate a registration or to fine or penalize a registered mortgage loan servicer.

Consistent with this requirement, the rule authorizes the Superintendent to refuse to register an applicant if he/she shall find that the applicant lacks the requisite character and fitness, or any person who is a director, officer, partner, agent, employee, substantial stockholder of the applicant has been convicted of certain felonies. These are the same standards as are applicable to mortgage bankers and mortgage brokers in New York. (See Section 418.7.)

Further, in carrying out the Legislature's mandate to regulate the mortgage servicing business, Section 418.8 sets out certain application requirements for prior approval of a change in control of a registered mortgage loan servicer and notification requirements for changes in the entity's executive officers and directors. Collectively, these various provisions implement the intent of the Legislature to register and supervise mortgage loan servicers.

The Department has separately adopted emergency regulations dealing with business conduct and consumer protection requirements for MLSs. (3 NYCRR Part 419).

## 3. Needs and Benefits.

The Subprime Law adopted a multifaceted approach to the lack of supervision of the mortgage loan industry. It affected a variety of areas in the residential mortgage loan industry, including: i. loan originations; ii. loan foreclosures; and iii. the conduct of business by residential mortgage loans servicers.

Previously, the Department of Financial Services (formerly the Banking Department) regulated the brokering and making of mortgage loans, but not the servicing of these mortgage loans. Servicing is vital part of the residential mortgage loan industry; it involves the collection of mortgage payments from borrowers and remittance of the same to owners of mortgage loans; to governmental agencies for taxes; and to insurance companies for insurance premiums. Mortgage servicers also may act as agents for owners of mortgages in negotiations relating to modifications. As "middlemen," moreover, servicers also play an important role when a property is foreclosed upon. For example, the servicer may typically act on behalf of the owner of the loan in the foreclosure proceeding.

Further, unlike in the case of a mortgage broker or a mortgage lender, borrowers cannot "shop around" for loan servicers, and generally have no input in deciding what company services their loans. The absence of the ability to select a servicer obviously raises concerns over the character and

viability of these entities given the central part of they play in the mortgage industry. There also is evidence that some servicers may have provided poor customer service. Specific examples of these activities include: pyramiding late fees; misapplying escrow payments; imposing illegal prepayment penalties; not providing timely and clear information to borrowers; and erroneously force-placing insurance when borrowers already have insurance.

While minimum standards for the business conduct of servicers is the subject of another emergency regulation which has been promulgated by the Department. (3 NYCRR Part 419) Section 418.2 makes it clear that persons exempted by from the registration requirement must notify the Department that they are servicing mortgage loans and must otherwise comply with the regulations.

As noted above, these regulations relate to the first component of the mortgage servicing statute – the registration of mortgage loan servicers. It is intended to ensure that only those persons and entities with adequate financial support and sound character and general fitness will be permitted to register as mortgage loan servicers.

Further, consumers in this state will also benefit under these regulations because in the event there is an allegation that a mortgage servicer is involved in wrongdoing and the Superintendent finds that there is good cause, or that there is a substantial risk of public harm, he or she can suspend such mortgage servicer for 30 days without a hearing. And in other cases, he or she can suspend or revoke such mortgage servicer's registration after notice and a hearing. Also, the requirement that servicers meet minimum financial standards and have performance and other bonds will act to ensure that consumers are protected.

As noted above, the MLS regulations are divided into two parts. The Department had separately adopted emergency regulations dealing with business conduct and consumer protection requirements for MLSs. (3 NYCRR Part 419)

All Exempt Organizations, mortgage bankers and mortgage brokers that perform mortgage loan servicing with respect to New York mortgages must notify the Superintendent that they do so, and will be required to comply with the conduct of business and consumer protection rules applicable to MLSs.

Under Section 418.2, a person servicing loans made under the Power New York Act of 2011 will not thereby be considered to be engaging in the business of servicing mortgage loans. Consequently, a person would not be subject to the rules applicable to MLSs by reason of servicing such loans.

## 4. Costs.

The mortgage business will experience some increased costs as a result of the fees associated with MLS registration. The amount of the application fee for MLS registration and for an MLS branch application is \$3,000.

The amount of the fingerprint fee is set by the State Division of Criminal Justice Services and the processing fees of the National Mortgage Licensing System are set by that body. MLSs will also incur administrative costs associated with preparing applications for registration.

The ability by the Department to regulate mortgage loan servicers is expected to reduce costs associated with responding to consumers' complaints, decrease unnecessary expenses borne by mortgagors, and, through the timely response to consumers' inquiries, should assist in decreasing the number of foreclosures in this state.

The regulations will not result in any fiscal implications to the State. The Department is funded by the regulated financial services industry. Fees charged to the industry will be adjusted periodically to cover Department expenses incurred in carrying out this regulatory responsibility.

## 5. Local Government Mandates.

None.

## 6. Paperwork.

An application process has been established for potential mortgage loan servicers to apply for registration electronically through the National Mortgage Licensing System and Registry (NMLSR) - a national system, which currently facilitates the application process for mortgage brokers, bankers and loan originators. Therefore, the application process is virtually paperless; however, a limited number of documents, including fingerprints where necessary, would have to be submitted to the Department in paper form.

The specific procedures that are to be followed in order to apply for registration as a mortgage loan servicer are detailed in Supervisory Procedure MB 109.

## 7. Duplication.

The regulation does not duplicate, overlap or conflict with any other regulations.

An exemption was created under Section 418.13, from the otherwise applicable net worth and surety bond requirements, for entities that are subject to the capital requirements applicable to insured depository institutions and are considered adequately capitalized.

## 8. Alternatives.

The purpose of the regulation is to carry out the statutory mandate to register mortgage loan servicers while at the same time avoiding overly complex and restrictive rules that would have imposed unnecessary burdens on the industry. The Department is not aware of any alternative that is available to the instant regulations. The Department also has been cognizant of the possible burdens of this regulation, and it has accordingly concluded that an exemption from the registration requirement for persons or entities that are involved in a de minimis amount of servicing would address the intent of the statute without imposing undue burdens those persons or entities.

The procedure for suspending servicers that violate certain financial responsibility or customer protection requirements, which provides a 90-day period for corrective action, during which there can be an investigation and hearing on the existence of other violations, provides flexibility to the process of enforcing compliance with the statutory requirements.

#### 9. Federal Standards.

Currently, mortgage loan servicers are not required to be registered by any federal agencies. However, although not a registration process, in order for any mortgage loan servicer to service loans on behalf of certain federal instrumentalities such servicers have to demonstrate that they have specific amounts of net worth and have in place Fidelity and E&O bonds.

These regulations exceed those minimum standards, in that, a mortgage loan servicer will now have to demonstrate character and general fitness in order to be registered as a mortgage loan servicer. In light of the important role of a servicer – collecting consumers' money and acting as agents for mortgagees in foreclosure transactions – the Department believes that it is imperative that servicers be required to meet this heightened standard.

#### 10. Compliance Schedule.

The emergency regulation will become effective on January 2, 2019. Similar emergency regulations have been in effect since July 1, 2009.

The Department expects to approve or deny applications within 90 days of the Department's receipt (through NMLSR) of a completed application.

A transitional period is provided for mortgage loan servicers which were doing business in this state on June 30, 2009 and which filed an application for registration by July 31, 2009. Such servicers will be deemed in compliance with the registration requirement until notified by the Superintendent that their application has been denied.

Additionally, the version of Part 418 adopted on an emergency basis effective August 5, 2011 requires holders of mortgage servicing rights to register as mortgage loans servicers even where they have sub-contracted servicing responsibilities to a third-party servicer. Such servicers were given until October 15, 2011 to file an application for registration.

### **Regulatory Flexibility Analysis**

#### 1. Effect of Rule:

The emergency rule will not have any impact on local governments. It is estimated that there are approximately 120 mortgage loan servicers in the state which are not mortgage bankers, mortgage brokers or exempt organizations, and which are therefore required to register under the Subprime Lending Reform Law (Ch. 472, Laws of 2008) (the "Subprime Law"). Of these, it is estimated that a very few of the remaining entities will be deemed to be small businesses.

#### 2. Compliance Requirements:

The provisions of the Subprime Law relating to mortgage loan servicers has two main components: it requires the registration by the Department of Financial Services (formerly the Banking Department) of servicers who are not mortgage bankers, mortgage brokers or exempt organizations (the "MLS Registration Regulations"), and it authorizes the Department to promulgate rules and regulations that are necessary and appropriate for the protection of consumers, to define improper or fraudulent business practices, or otherwise appropriate for the effective administration of the provisions of the Subprime Law relating to mortgage loan servicers (the "MLS Business Conduct Regulations").

The provisions of the Subprime Law requiring registration of mortgage loan servicers which are not mortgage bankers, mortgage brokers or exempt organizations became effective on July 1, 2009. The emergency MLS Registration Regulations here adopted implement that statutory requirement by providing a procedure whereby MLSs can apply to be registered and standards and procedures for the Department to approve or deny such applications. The emergency regulations also set forth financial responsibility standards applicable to applicants for MLS registration, registered MLSs and servicers which are exempted from the registration requirement.

Additionally, the regulations set forth standards and procedures for Department action on applications for approval of change of control of an MLS. Finally, the emergency regulations set forth standards and procedures for, suspension, revocation, expiration, termination and surrender of MLS registrations, as well as for the imposition of fines and penalties on MLSs.

#### 3. Professional Services:

None.

#### 4. Compliance Costs:

Applicants for mortgage loan servicer registration will incur administrative costs associated with preparing applications for registration. Applicants, registered MLSs and mortgage loan servicers exempted from the registration requirement may incur costs in complying with the financial responsibility regulations. Registration fees of \$3000, plus fees for fingerprint processing and participation in the National Mortgage Licensing System and Registry (NMLS) will be required of non-exempt servicers.

#### 5. Economic and Technological Feasibility:

The emergency rule-making should impose no adverse economic or technological burden on mortgage loan servicers who are small businesses. The NMLS is now available. This technology will benefit registrants by saving time and paperwork in submitting applications, and will assist the Department by enabling immediate tracking, monitoring and searching of registration information; thereby protecting consumers.

#### 6. Minimizing Adverse Impact:

The regulations minimize the costs and burdens of the registration process by utilizing the internet-based NMLS, developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators. This system uses an on-line application form for servicer registration. A common form will be accepted by New York and the other participating states.

As noted above, most servicers are not small businesses. As regards servicers that are small businesses and not otherwise exempted, the regulations give the Superintendent of Financial Services (formerly the Superintendent of Banks) the authority to reduce, waive or modify the financial responsibility requirements for entities that do a de minimis amount of servicing.

#### 7. Small Business and Local Government Participation:

Industry representatives have participated in outreach programs regarding regulation of servicers. The Department also maintains continuous contact with large segments of the servicing industry through its regulation of mortgage bankers and brokers. The Department likewise maintains close contact with a variety of consumer groups through its community outreach programs and foreclosure mitigation programs. In response to comments received regarding earlier versions of this regulation, the Department has modified the financial responsibility requirements. The revised requirements should generally be less burdensome for mortgage loan servicers, particularly smaller servicers and those located in rural areas.

### **Rural Area Flexibility Analysis**

#### Types and Estimated Numbers of Rural Areas:

Approximately 70 mortgage loan servicers have been registered by the Department of Financial Services or have applied for registration. Very few of these entities operate in rural areas of New York State and of those, most are individuals that do a de minimis business. As discussed below, the Superintendent can modify the requirements of the regulation in such cases.

#### Compliance Requirements:

Mortgage loan servicers in rural areas which are not mortgage bankers, mortgage brokers or exempt organizations must be registered with the Superintendent to engage in the business of mortgage loan servicing. An application process will be established requiring a MLS to apply for registration electronically and to submit additional background information and fingerprints to the Mortgage Banking unit of the Department.

MLSs are required to meet certain financial responsibility requirements based on their level of business. The regulations authorize the Superintendent of Financial Services (formerly the Superintendent of Banks) to reduce or waive the otherwise applicable financial responsibility requirements in the case of MLSs which service not more than \$4,000,000 in aggregate mortgage loans in New York and which do not collect tax or insurance payments. The Superintendent is also authorized to reduce or waive the financial responsibility requirements in other cases for good cause. The Department believes that this will ameliorate any burden which those requirements might otherwise impose on entities operating in rural areas.

#### Costs:

The mortgage business will experience some increased costs as a result of the fees associated with MLS registration. The application fee for MLS registration will be \$3,000. The amount of the fingerprint fee is set by the State Division of Criminal Justice Services and the processing fees of the National Mortgage Licensing System and Registry ("NMLSR") are set by that body. Applicants for mortgage loan servicer registration will also incur administrative costs associated with preparing applications for registration.

Applicants, registered MLSs and mortgage loan servicers exempted from the registration requirement may incur costs in complying with the financial responsibility regulations.

#### Minimizing Adverse Impact:

The regulations minimize the costs and burdens of the registration pro-

cess by utilizing the internet-based NMLSR, developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators. This system uses an on-line application form for servicer registration. A common form will be accepted by New York and the other participating states.

Of the servicers which operate in rural areas, it is believed that most are mortgage bankers, mortgage brokers or exempt organizations. Additionally, in the case of servicers that operate in rural areas and are not otherwise exempted, the Superintendent has the authority to reduce, waive or modify the financial responsibility requirements for individuals that do a de minimis amount of servicing.

#### Rural Area Participation:

Industry representatives have participated in outreach programs regarding regulation of servicers. The Department also maintains continuous contact with large segments of the servicing industry through its regulation of mortgage bankers and brokers. The Department likewise maintains close contact with a variety of consumer groups through its community outreach programs and foreclosure mitigation programs. In response to comments received regarding earlier versions of this regulation, the Department has modified the financial responsibility requirements. The revised requirements should generally be less burdensome for mortgage loan servicers, particularly smaller servicers and those located in rural areas.

#### Job Impact Statement

Article 12-D of the Banking Law, as amended by the Subprime Lending Reform Law (Ch. 472, Laws of 2008), requires persons and entities which engage in the business of servicing mortgage loans to be registered with the Superintendent of Financial Services (formerly the Superintendent of Banks). This emergency regulation sets forth the application, exemption and approval procedures for registration as a Mortgage Loan servicer (MLS), as well as financial responsibility requirements for applicants, registrants and exempted persons. The regulation also establishes requirements with respect to changes of officers, directors and/or control of MLSs and provisions with respect to suspension, revocation, termination, expiration and surrender of MLS registrations.

The requirement to comply with the emergency regulations is not expected to have a significant adverse effect on jobs or employment activities within the mortgage loan servicing industry. Many of the larger entities engaged in the mortgage loan servicing business are already subject to oversight by the Department of Financial Services (formerly the Banking Department) and exempt from the new registration requirement. Additionally, the regulations give the Superintendent the authority to reduce, waive or modify the financial responsibility requirements for entities that do a de minimis amount of servicing.

The registration process itself should not have an adverse effect on employment. The regulations require the use of the internet-based National Mortgage Licensing System and Registry, developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators. This system uses a common on-line application for servicer registration in New York and other participating states. It is believed that any remaining adverse impact would be due primarily to the nature and purpose of the statutory registration requirement rather than the provisions of the emergency regulations.

NYCRR Part 596 – Telepsychiatry Services. Current regulations establish basic standards and parameters to approve the use of telepsychiatry in certain OMH-licensed programs that elect to offer this service.

The proposed amendments are intended to continue to expand the opportunity to offer telemental health services in the New York State regulated mental health system. Originally limited to services provided by psychiatrists and nurse practitioners, these amendments expand the range of services that can be offered by mental health providers approved by the Office of Mental Health to deliver telemental health services to include services of psychologists, social workers, and mental health counselors. As such, the amendments include changing the title of Part 596 (Telepsychiatry Services) to Telemental Health Services.

The proposed changes are also in response to the amendment to section 2990-c of the Public Health Law in early 2018. The law allows practitioners and patients to physically sit outside of Article 31 licensed programs. The proposed changes allow psychiatrists and nurse practitioners in psychiatry to deliver services from a site located within the US (including a space in a place of residence approved by OMH) and other mental health practitioners to deliver services within New York state only, but also from a space in a place of residence within New York.

The proposed changes also expand the use of telemental health services, allowing such services to be delivered in Assertive Community Treatment (“ACT”) and Personalized Recovery Oriented Services (“PROS”) settings, time limited, when there is a demonstrated shortage of psychiatrists and/or nurse practitioners in psychiatry.

The proposed amendments are intended to continue to expand the opportunity to offer telemental health services in the New York State regulated mental health system. Originally limited to services provided by psychiatrists and nurse practitioners, these amendments expand the range of services that can be offered by mental health providers approved by the Office of Mental Health to deliver telemental health services to include services of psychologists, social workers, and mental health counselors. As such, the amendments include changing the title of Part 596 (Telepsychiatry Services) to Telemental Health Services.

Coupled with the expansion of the range of professionals at distant/hub sites that can provide services, these amendments also include language derived from applicable practice guidelines intended to maintain quality care when services are delivered remotely. These include enhanced patient assessment requirements to ensure a particular patient’s presenting problems and apparent condition are consistent with the use of telemental health to the patient’s benefit, a requirement to ensure practitioner credentials are clearly visible during telemental health encounters, and the inclusion of basic technology requirements. In addition, previous restrictions regarding the use of telemental health services to fulfill involuntary commitment requirements have been removed.

**Text of proposed rule and any required statements and analyses may be obtained from:** Kelly Grace, Office of Mental Health, 44 Holland Avenue, Albany, New York 12229, (518) 474-1331, email: Kelly.Grace@omh.ny.gov

**Data, views or arguments may be submitted to:** Same as above.

**Public comment will be received until:** 60 days after publication of this notice.

#### Regulatory Impact Statement

1. Statutory Authority: Sections 7.09, 31.02 and 31.04 of the Mental Hygiene Law grant the Commissioner of Mental Health the authority and responsibility to adopt regulations that are necessary and proper to implement matters under his or her jurisdiction. Public Health Law Section 299-dd.

2. Legislative Objectives: The proposed amendments are intended to continue to expand the opportunity to offer telemental health services in the New York State regulated mental health system.

3. Needs and Benefits: The proposed amendments are intended to continue to expand the opportunity to offer telemental health services in the New York State regulated mental health system. Originally limited to services provided by psychiatrists and nurse practitioners, these amendments expand the range of services that can be offered by mental health providers approved by the Office of Mental Health to deliver telemental health services to include services of psychologists, social workers, and mental health counselors. As such, the amendments include changing the title of Part 596 (Telepsychiatry Services) to Telemental Health Services.

The proposed changes are also in response to the amendment to section 2990-c of the Public Health Law in early 2018. The law allows practitioners and patients to physically sit outside of Article 31 licensed programs. The proposed changes allow psychiatrists and nurse practitioners in psychiatry to deliver services from a site located within the US (including a space in a place of residence approved by OMH) and other mental health practitioners to deliver services within New York state only, but also from a space in a place of residence within New York.

The proposed changes also expand the use of telemental health ser-

## Office of Mental Health

### PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

#### Expansion of Telemental Health (Telepsychiatry) Services to Additional OMH Licensed Settings and Programs

I.D. No. OMH-04-19-00002-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** Amendment of Part 596 of Title 14 NYCRR.

**Statutory authority:** Mental Hygiene Law, sections 7.09, 31.02, 31.04; Public Health Law, section 2999-dd

**Subject:** Expansion of Telemental Health (Telepsychiatry) services to additional OMH licensed settings and programs.

**Purpose:** To implement Public Health Law section 2999-dd and address current shortages in psychiatrists and nurse practitioners in psychiatry.

**Substance of proposed rule (Full text is posted at the following State website: [https://www.omh.ny.gov/omhweb/policy\\_and\\_regulations/](https://www.omh.ny.gov/omhweb/policy_and_regulations/)):** At this time, the Office of Mental Health is proposing amendments to 14

vices, allowing such services to be delivered in Assertive Community Treatment (“ACT”) and Personalized Recovery Oriented Services (“PROS”) settings, time limited, when there is a demonstrated shortage of psychiatrists and/or nurse practitioners in psychiatry.

4. Costs:

(a) Cost to State government: There are no costs to State government as a result of these amendments.

(b) Cost to local government: There are no new costs to local government as a result of these amendments.

(c) Cost to regulated parties: There are no new costs to regulated parties as a result of these amendments.

5. Local Government Mandates: The provision of telemental health services is not required.

These regulatory amendments will not involve or result in any additional imposition of duties or responsibilities upon county, city, town, village, school, or fire districts.

6. Paperwork: There are no new paperwork requirements as a result of the amendments.

7. Duplication: These regulatory amendments do not duplicate existing State or federal requirements.

8. Alternatives: Alternatives were not considered. The proposed amendment intends to increase flexibility for providers wishing to deliver telemental health services.

9. Federal Standards: There are currently no federal standards specific to the provision of these crisis residential services.

10. Compliance Schedule: The amendments would be effective upon adoption, after expiration of the 60 day public comment period required by the State Administrative Procedure Act.

**Regulatory Flexibility Analysis**

The amendments to 14 NYCRR Part 596 are intended to establish basic standards and parameters to approve the use of telepsychiatry in certain OMH-licensed programs that choose to offer this service. The changes also implement the amendment to section 2990-c of the Public Health Law in early 2018 which expands the settings in which practitioners and patients may sit during the delivery of telemental health services. The proposed changes also expand the use of telemental health services, allowing such services to be delivered in Assertive Community Treatment (“ACT”) and Personalized Recovery Oriented Services (“PROS”) settings, time limited, when there is a demonstrated shortage of psychiatrists and/or nurse practitioners in psychiatry.

The provision of telemental health services is not required, and the amendments themselves do not create new local government mandates. As there will be no adverse economic impact on small businesses or local governments as a result of these amendments, a regulatory flexibility analysis is not submitted with this notice.

**Rural Area Flexibility Analysis**

The amendments to 14 NYCRR Part 596 are intended to continue to expand the opportunity to offer telemental health services in the New York State regulated mental health system. Originally limited to services provided by psychiatrists and nurse practitioners, these amendments expand the range of services that can be offered by mental health providers approved by the Office of Mental Health to deliver telemental health services to include services of psychologists, social workers, and mental health counselors. The changes also implement the amendment to section 2990-c of the Public Health Law in early 2018 which expands the settings in which practitioners and patients may sit during the delivery of telemental health services. The proposed changes also expand the use of telemental health services, allowing such services to be delivered in Assertive Community Treatment (“ACT”) and Personalized Recovery Oriented Services (“PROS”) settings, time limited, when there is a demonstrated shortage of psychiatrists and/or nurse practitioners in psychiatry.

In 2012, the Institute of Medicine published a document which revealed that the use of technology to deliver health care services helps to drive volume, increase quality of care, and reduce cost by reducing readmissions and unnecessary emergency department visits, particularly in rural communities (see The Role of Telehealth in Evolving Health Care Environment, Institute of Medicine, 2012 Workshop Summary, Washington D.C. The National Academies Press <https://doi.org/10.17226/13466>). According to this resource, telehealth allows small rural hospitals to continue providing quality care at low cost. Also, rural patients receiving care via telehealth can avoid driving long distances to access specialty care.

Thus, these amendments will serve to enhance opportunities for mental health providers who choose to utilize it to better meet the needs of a diverse patient population, and expand access to services in rural areas and by historically underserved groups. However, the provision of telepsychiatry services is not required. Therefore, because the proposed rule will not impose any adverse economic impact on rural areas; a Rural Area Flexibility Analysis is not submitted with this notice.

**Job Impact Statement**

The amendments to 14 NYCRR Part 596 are intended to establish basic standards and parameters to approve the use of telepsychiatry in certain OMH-licensed programs that choose to offer this service, and implement the amendment to section 2990-c of the Public Health Law in early 2018 which expands the settings in which practitioners and patients may sit during the delivery of telemental health services. The proposed changes also expand the use of telemental health services, allowing such services to be delivered in Assertive Community Treatment (“ACT”) and Personalized Recovery Oriented Services (“PROS”) settings, time limited, when there is a demonstrated shortage of psychiatrists and/or nurse practitioners in psychiatry. Overall, the expansion will allow increased access to jobs in state, because there is no longer a requirement that the practitioner sit in a Medicaid enrolled site only.

**Public Service Commission**

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Notice of Intent to Submeter Electricity**

**I.D. No.** PSC-04-19-00003-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering the notice of intent of 283 Greene LLC to submeter electricity at 283 Greene Avenue, Brooklyn, New York.

**Statutory authority:** Public Service Law, sections 2, 4(1), 30, 32-48, 52, 53, 65(1), 66(1), (2), (3), (4), (12) and (14)

**Subject:** Notice of intent to submeter electricity.

**Purpose:** To ensure adequate submetering equipment and consumer protections are in place.

**Substance of proposed rule:** The Commission is considering the notice of intent filed by 283 Greene LLC on December 19, 2018, to submeter electricity at 283 Greene Avenue, Brooklyn, New York, located in the service territory of Consolidated Edison Company of New York, Inc. (Con Edison).

By stating its intent to submeter electricity, 283 Greene LLC requests authorization to take electric service from Con Edison and then distribute and meter that electricity to its residents. Submetering of electricity to residential residents is allowed so long as it complies with the protections and requirements of the Commission’s regulations in 16 NYCRR Part 96.

The full text of the notice of intent and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-E-0776SP1)

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Con Edison’s Petition for the Gas Innovation Program and Associated Budget**

**I.D. No.** PSC-04-19-00004-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a petition filed by Consolidated Edison Company of New York, Inc. on December 20, 2018, for the Gas Innovation Program Implementation Plan in the Smart Solutions for Natural Gas Customers Program.

**Statutory authority:** Public Service Law, sections 5, 65 and 66

**Subject:** Con Edison's petition for the Gas Innovation Program and associated budget.

**Purpose:** To pursue programs that continue service reliability and meet customer energy needs while aiding greenhouse gas reduction goals.

**Substance of proposed rule:** The Public Service Commission (PSC) is considering a petition filed on December 20, 2018 by Consolidated Edison Company of New York, Inc. (Con Edison or Company), regarding the Request for Approval of Gas Innovation Program Implementation Plan in The Smart Solutions for Natural Gas Customers Program (Smart Solutions Program).

The Company's petition seeks approval for a project portfolio of three business model innovation proposals with a \$9.8 million budget that includes: (1) Ground Source Heat Pump 'Clustering' Solution for Residential Customers in Westchester County; (2) Financing Solution for Air Source Heat Pumps for Small to Medium Commercial Customers and Municipalities; and (3) On-line Platform Solution for Air to Water Heat Pumps for Multifamily Buildings in New York City. The proposed budget includes the cost of the projects as well as funds needed by the Company for project and contract administration, project measurement and verification, and customer engagement and marketing costs. The Request for Approval of Gas Innovation Program Implementation Plan is part of Con Edison's petition filed with the Commission for approval of its proposed Smart Solutions Program, which seeks to meet the demand for gas on peak days in Con Edison's service territory with market-based and non-traditional solutions.

The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(17-G-0606SP5)

## PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

### Request of Cross-Sound Cable Company, LLC and Cross-Sound Cable Company (New York) LLC to Increase Authorized Indebtedness

**I.D. No.** PSC-04-19-00005-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a petition filed on November 21, 2018 by Cross-Sound Cable Company, LLC and Cross-Sound Cable Company (New York) LLC seeking approval to increase their authorized indebtedness by \$100 million to \$237 million.

**Statutory authority:** Public Service Law, sections 2(12), (13), 4(1), 5(2), 65(1), 66(1), (2), (4), (5) and 69

**Subject:** Request of Cross-Sound Cable Company, LLC and Cross-Sound Cable Company (New York) LLC to increase authorized indebtedness.

**Purpose:** To consider a petition to increase authorized indebtedness.

**Substance of proposed rule:** The Public Service Commission is considering a petition filed by the Cross-Sound Cable Company, LLC and Cross-Sound Cable Company (New York) LLC (collectively, the Petitioners) on November 21, 2018, seeking to increase their authority to incur indebted-

ness by \$100 million, for a term in excess of twelve months, from \$137.5 million to \$237.5 million.

Petitioners own and operate a direct current transmission line (the "Cross-Sound Cable") that extends from New Haven, Connecticut and Shoreham, New York and provides bi-directional transfer capacity of approximately 330 MW between the two regions. Petitioners represent that the debt is needed to provide working capital, finance operation and maintenance of the Cross-Sound Cable (including potential system upgrades), and for general corporate purposes.

The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-E-0723SP1)

## PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

### Residential Meter Reading

**I.D. No.** PSC-04-19-00006-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a proposal filed by KeySpan Gas East Corporation d/b/a National Grid to modify its gas tariff schedule, P.S.C. No. 1, regarding a new provision relating to residential meter reading.

**Statutory authority:** Public Service Law, sections 39(4), 65 and 66

**Subject:** Residential meter reading.

**Purpose:** To establish provisions for a special meter read for when service is discontinued to residential customers.

**Substance of proposed rule:** The Commission is considering a tariff filing by KeySpan Gas East Corporation d/b/a National Grid (KEDLI) on November 8, 2018, to amend its gas tariff schedule, P.S.C. No. 1.

KEDLI proposes to modify General Information Section II.3.B Meter Reading and Rendering of Bills, to establish a new provision for meter reading for the discontinuation of utility service to residential customers in accordance with the recently enacted Public Service Law Section 39(4), which became effective on August 24, 2018. KEDLI proposes to include language in its tariff explaining a residential customer's ability to request a meter read on a date other than the customer's regularly scheduled meter read date. KEDLI also proposes to charge a fee of \$20 for all special meter reads requested by the customer. The proposed amendment has an effective date of May 1, 2019.

The full text of the filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-M-0679SP1)

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Minor Rate Filing****I.D. No.** PSC-04-19-00007-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering proposed tariff amendments filed by Penn Yan Municipal Utilities Board, to P.S.C. No. 1—Electricity, to increase its total annual electric revenues by approximately \$331,333, or 10.9%.

**Statutory authority:** Public Service Law, sections 65 and 66

**Subject:** Minor rate filing.

**Purpose:** To increase authorized indebtedness to provide funds for working capital and operations and maintenance.

**Substance of proposed rule:** The Commission is considering a proposal, filed by Penn Yan Municipal Utilities Board (Penn Yan) on December 20, 2018, to amend its tariff schedule, P.S.C. No. 1 – Electricity, to increase its total annual revenues by approximately \$331,333 or 10.9%.

Penn Yan states the increase is necessary because the forecasted rate of return before the requested revenue increase is expected to be a negative (3.02%) due to increased rate base and operating costs since its last rate increase in 2013. Penn Yan also states it has experienced increased expenses related to purchased power costs and labor and fringe benefits. The proposed amendments have an effective date of June 1, 2019.

The full text of the rate filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject, or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-E-0782SP1)

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Residential Meter Reading****I.D. No.** PSC-04-19-00008-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a proposal filed by Central Hudson Gas and Electric Corporation to modify its electric tariff schedule, P.S.C. No. 15, regarding a new provision relating to residential meter reading.

**Statutory authority:** Public Service Law, sections 39(4), 65 and 66

**Subject:** Residential meter reading.

**Purpose:** To establish provisions for a special meter read for when service is discontinued to residential customers.

**Substance of proposed rule:** The Commission is considering a tariff filing by Central Hudson Gas and Electric Corporation (Central Hudson) on December 3, 2018, to amend its electric tariff schedule, P.S.C. No. 15.

Central Hudson proposes to modify General Information Section 14 Meter Reading, Estimated Bill and Backbilling, to establish a new provision for meter reading for the discontinuation of utility service to residential customers in accordance with the recently enacted Public Service Law Section 39(4), which became effective on August 24, 2018. Central

Hudson proposes to include language in its tariff explaining a residential customer's ability to request a meter read on a date other than the customer's regularly scheduled meter read date. Central Hudson also proposes to modify General Information Section 13 – Billing for Services Supplied, to specify a fee of \$20 for all special meter reads requested by the customer. The proposed amendment has an effective date of May 1, 2019.

The full text of the filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-M-0679SP4)

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Residential Meter Reading****I.D. No.** PSC-04-19-00009-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a proposal filed by Niagara Mohawk Power Corporation d/b/a National Grid to modify its gas tariff schedule, P.S.C. No. 219, regarding a new provision relating to residential meter reading.

**Statutory authority:** Public Service Law, sections 39(4), 65 and 66

**Subject:** Residential meter reading.

**Purpose:** To establish provisions for a special meter read for when service is discontinued to residential customers.

**Substance of proposed rule:** The Commission is considering a tariff filing by Niagara Mohawk Power Corporation d/b/a National Grid (NMPC) on November 8, 2018, to amend its gas tariff schedule, P.S.C. No. 219.

NMPC proposes to modify General Information Section 13.1.4 Meter Reading, to establish a new provision for meter reading for the discontinuation of utility service to residential customers in accordance with the recently enacted Public Service Law Section 39(4), which became effective on August 24, 2018. NMPC proposes to include language in its tariff explaining a residential customer's ability to request a meter read on a date other than the customer's regularly scheduled meter read date. NMPC also proposes to charge a fee of \$20 for all special meter reads requested by the customer. The proposed amendment has an effective date of May 1, 2019.

The full text of the filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-M-0679SP2)

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Residential Meter Reading****I.D. No.** PSC-04-19-00010-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a proposal filed by Central Hudson Gas and Electric Corporation to modify its gas tariff schedule, P.S.C. No. 12, regarding a new provision relating to residential meter reading.

**Statutory authority:** Public Service Law, sections 39(4), 65 and 66

**Subject:** Residential meter reading.

**Purpose:** To establish provisions for a special meter read for when service is discontinued to residential customers.

**Substance of proposed rule:** The Commission is considering a tariff filing by Central Hudson Gas and Electric Corporation (Central Hudson) on December 3, 2018, to amend its gas tariff schedule, P.S.C. No. 12.

Central Hudson proposes to modify General Information Section 14 Meter Reading, Estimated Bill and Backbilling, to establish a new provision for meter reading for the discontinuation of utility service to residential customers in accordance with the recently enacted Public Service Law Section 39(4), which became effective on August 24, 2018. Central Hudson proposes to include language in its tariff explaining a residential customer's ability to request a meter read on a date other than the customer's regularly scheduled meter read date. Central Hudson also proposes to modify General Information Section 13 – Billing for Services Supplied, to specify a fee of \$20 for all special meter reads requested by the customer. The proposed amendment has an effective date of May 1, 2019.

The full text of the filing of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-M-0679SP5)

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Update of Revenue Targets****I.D. No.** PSC-04-19-00011-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering whether to update the revenue targets in the revenue reconciliation mechanism of New York American Water, Inc. (NYAW) to account for the suspension of the fourth residential rate block during Rate Year 2.

**Statutory authority:** Public Service Law, sections 89-b and 89-c

**Subject:** Update of revenue targets.

**Purpose:** To ensure NYAW's rates are just and reasonable and accurately reflect the needed revenues.

**Substance of proposed rule:** The Public Service Commission (Commission) is considering updating the Rate Year 2 (twelve months ending March 31, 2019) revenue targets of New York American Water, Inc.

(NYAW or the Company) in the Company's revenue reconciliation mechanism, which was approved in the Order Establishing Rates for Water Service issued on May 18, 2017.

On August 28, 2018, the Commission and NYAW submitted a joint letter motion to the Supreme Court of New York State for the Court's approval of a Consent Order and Judgement (Consent Order). The Consent Order, among other stipulations, directed NYAW to suspend billing of the fourth residential block rate and instead bill that usage at the third residential block rate, effective for the entirety of Rate Year 2 of the current rate plan. Absent revisions to the revenue targets, the Company would collect the revenues that had been forecast to be received from the fourth residential block rate through the revenue reconciliation mechanism surcharge. Therefore, the Company's revenue targets need to be adjusted accordingly to ensure that it is reconciled to the correct amount of revenue as stipulated by the Consent Order.

The full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject, or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(16-W-0259SP7)

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Residential Meter Reading****I.D. No.** PSC-04-19-00012-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a proposal filed by Niagara Mohawk Power Corporation d/b/a National Grid to modify its electric tariff schedule, P.S.C. No. 220, regarding modifications to the provision relating to residential meter reading.

**Statutory authority:** Public Service Law, sections 39(4), 65 and 66

**Subject:** Residential meter reading.

**Purpose:** To remove notice requirement for a special meter read for the discontinuation of service to residential customers.

**Substance of proposed rule:** The Commission is considering a tariff filing filed by Niagara Mohawk Power Corporation d/b/a National Grid (NMPC) on November 15, 2018, to amend its electric tariff schedule, P.S.C. No. 220.

NMPC proposes to remove the 15-calendar day notice requirement, currently in its electric tariff schedule, for a special meter reading in cases where the customer has requested discontinuation of utility service. NMPC states that this change will conform to the recently enacted Public Service Law Section 39(4), which became effective on August 24, 2018. The proposed amendment has an effective date of May 1, 2019.

The full text of the filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.  
(18-M-0679SP3)

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Residential Meter Reading****I.D. No.** PSC-04-19-00013-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a proposal filed by the City of Jamestown to modify its electric tariff schedule, P.S.C. No. 7, regarding a new provision relating to residential meter reading.

**Statutory authority:** Public Service Law, sections 39(4), 65 and 66  
**Subject:** Residential meter reading.

**Purpose:** To establish provisions for a special meter read for when service is discontinued to residential customers.

**Substance of proposed rule:** The Commission is considering a tariff filing filed by the City of Jamestown (Jamestown) on January 2, 2019, to amend its electric tariff schedule, P.S.C. No. 7.

Jamestown proposes to modify General Information Section 5A Disconnection and Reconnection of Service – Residential to establish a new provision for meter reading for the discontinuation of utility service to residential customers in accordance with the recently enacted Public Service Law Section 39(4) which became effective on August 24, 2018. Jamestown proposes to include language in its tariff explaining a residential customer's ability to request a meter read on a date other than the customer's regularly scheduled meter read date. The proposed amendment has an effective date of May 1, 2019.

The full text of the filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

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**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-M-0679SP12)

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Residential Meter Reading****I.D. No.** PSC-04-19-00014-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a proposal filed by National Fuel Gas Distribution Corporation to modify its gas tariff schedule, P.S.C. No. 9, regarding a new provision relating to residential meter reading.

**Statutory authority:** Public Service Law, sections 39(4), 65 and 66  
**Subject:** Residential meter reading.

**Purpose:** To establish provisions for a special meter read for when service is discontinued to residential customers.

**Substance of proposed rule:** The Commission is considering a tariff filing

by National Fuel Gas Distribution Corporation (National Fuel) on January 4, 2019, to amend its gas tariff schedule, P.S.C. No. 9.

National Fuel proposes to modify General Information Section II.2.L Company Disconnection for Safety, Tampering, etc., to establish a new provision for meter reading for the discontinuation of utility service to residential customers in accordance with the recently enacted Public Service Law Section 39(4), which became effective on August 24, 2018. National Fuel proposes to include language in its tariff explaining a residential customer's ability to request a meter read on a date other than the customer's regularly scheduled meter read date. National Fuel also proposes to charge a fee of \$20 for procuring or attempting to procure an actual meter read. The proposed amendment has an effective date of May 1, 2019.

The full text of the filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-M-0679SP13)

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Residential Meter Reading****I.D. No.** PSC-04-19-00015-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a proposal filed by the Village of Freeport to modify its electric tariff schedule, P.S.C. No. 9, regarding a new provision relating to residential meter reading.

**Statutory authority:** Public Service Law, sections 39(4), 65 and 66  
**Subject:** Residential meter reading.

**Purpose:** To establish provisions for a special meter read for when service is discontinued to residential customers.

**Substance of proposed rule:** The Commission is considering a tariff filing filed by the Village of Freeport (Freeport) on December 24, 2018, to amend its electric tariff schedule, P.S.C. No. 9.

Freeport proposes to modify Service Classification No. 1 – Residential Service to establish a new provision for meter reading for the discontinuation of utility service to residential customers in accordance with the recently enacted Public Service Law Section 39(4) which became effective on August 24, 2018. Freeport proposes to include language in its tariff explaining a residential customer's ability to request a meter read on a date other than the customer's regularly scheduled meter read date. The proposed amendment has an effective date of May 1, 2019.

The full text of the filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act. (18-M-0679SP11)

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Residential Meter Reading**

**I.D. No.** PSC-04-19-00016-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a proposal filed by Consolidated Edison Company of New York, Inc. to modify its electric tariff schedule, P.S.C. No. 10, regarding a new provision relating to residential meter reading.

**Statutory authority:** Public Service Law, sections 39(4), 65 and 66

**Subject:** Residential meter reading.

**Purpose:** To establish provisions for a special meter read for when service is discontinued to residential customers.

**Substance of proposed rule:** The Commission is considering a tariff filing filed by Consolidated Edison Company of New York, Inc. (Con Edison) on January 4, 2019, to amend its electric tariff schedule, P.S.C. No. 10.

Con Edison proposes to modify General Rules Section 17.1 Special Services at Stipulated Rates, to establish a new provision for meter reading for the discontinuation of utility service to residential customers in accordance with the recently enacted Public Service Law Section 39(4), which became effective on August 24, 2018. Con Edison proposes to include language in its tariff explaining a residential customer's ability to request a meter read on a date other than the customer's regularly scheduled meter read date. Con Edison also proposes to charge a fee of \$19 for the meter read. The proposed amendment has an effective date of May 1, 2019.

The full text of the filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-M-0679SP14)

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Residential Meter Reading**

**I.D. No.** PSC-04-19-00017-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a proposal filed by the Rochester Gas and Electric Corporation to modify its gas tariff schedule, P.S.C. No. 16, regarding a new provision relating to residential meter reading.

**Statutory authority:** Public Service Law, sections 39(4), 65 and 66

**Subject:** Residential meter reading.

**Purpose:** To establish provisions for a special meter read for when service is discontinued to residential customers.

**Substance of proposed rule:** The Commission is considering a tariff filing filed by the Rochester Gas and Electric Corporation (RG&E or the Company) on December 20, 2018, to amend its gas tariff schedule, P.S.C. No. 16.

RG&E proposes to modify General Information Section 5.E, Termination of Service Due to Customer Request, to establish a new provision for meter reading for the discontinuation of utility service to residential customers in accordance with the recently enacted Public Service Law Section 39(4) which became effective on August 24, 2018. RG&E proposes to include language in its tariff explaining a residential customer's ability to request a meter read on a date other than the customer's regularly scheduled meter read date which includes that the Company shall attempt to read it, render a final bill and at the Company's option terminate the service. The proposed amendment has an effective date of May 1, 2019.

The full text of the filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-M-0679SP10)

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Residential Meter Reading**

**I.D. No.** PSC-04-19-00018-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a proposal filed by Consolidated Edison Company of New York, Inc. to modify its gas tariff schedule, P.S.C. No. 9, regarding a new provision relating to residential meter reading.

**Statutory authority:** Public Service Law, sections 39(4), 65 and 66

**Subject:** Residential meter reading.

**Purpose:** To establish provisions for a special meter read for when service is discontinued to residential customers.

**Substance of proposed rule:** The Commission is considering a tariff filing filed by Consolidated Edison Company of New York, Inc. (Con Edison) on January 4, 2019, to amend its gas tariff schedule, P.S.C. No. 9.

Con Edison proposes to modify General Information Section IV.3(b) Special Meter Reading Fees, Service Classification (SC) No. 9 – Transportation Service Miscellaneous Provisions (P) Special Meter Reading Fee, and SC No. 20 – Transportation Receipt Service Miscellaneous Provisions (N), to establish a new provision for meter reading for the discontinuation of utility service to residential customers in accordance with the recently enacted Public Service Law Section 39(4), which became effective on August 24, 2018. Con Edison proposes to include language in its tariff explaining a residential customer's ability to request a meter read on a date other than the customer's regularly scheduled meter read date. Con Edison also proposes to charge a fee of \$19 for the meter read. The proposed amendment has an effective date of May 1, 2019.

The full text of the filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-M-0679SP15)

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Residential Meter Reading**

**I.D. No.** PSC-04-19-00019-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a proposal filed by the Rochester Gas and Electric Corporation to modify its electric tariff schedule, P.S.C. No. 19, regarding a new provision relating to residential meter reading.

**Statutory authority:** Public Service Law, sections 39(4), 65 and 66

**Subject:** Residential meter reading.

**Purpose:** To establish provisions for a special meter read for when service is discontinued to residential customers.

**Substance of proposed rule:** The Commission is considering a tariff filing filed by the Rochester Gas and Electric Corporation (RG&E or the Company) on December 20, 2018, to amend its electric tariff schedule, P.S.C. No. 19.

RG&E proposes to modify General Information Section 5.E, Termination of Service Due to Customer Request, to establish a new provision for meter reading for the discontinuation of utility service to residential customers in accordance with the recently enacted Public Service Law Section 39(4) which became effective on August 24, 2018. RG&E proposes to include language in its tariff explaining a residential customer's ability to request a meter read on a date other than the customer's regularly scheduled meter read date which includes that the Company shall attempt to read it, render a final bill and at the Company's option terminate the service. The proposed amendment has an effective date of May 1, 2019.

The full text of the filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-M-0679SP9)

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Residential Meter Reading**

**I.D. No.** PSC-04-19-00020-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a proposal filed by the

New York State Electric & Gas Corporation to modify its gas tariff schedule, P.S.C. No. 90, regarding a new provision relating to residential meter reading.

**Statutory authority:** Public Service Law, sections 39(4), 65 and 66

**Subject:** Residential meter reading.

**Purpose:** To establish provisions for a special meter read for when service is discontinued to residential customers.

**Substance of proposed rule:** The Commission is considering a tariff filing filed by the New York State Electric & Gas Corporation (NYSEG or the Company) on December 20, 2018, to amend its gas schedule, P.S.C. No. 90.

NYSEG proposes to modify General Information Section 8.N, Termination of Service Due to Customer Request, to establish a new provision for meter reading for the discontinuation of utility service to residential customers in accordance with the recently enacted Public Service Law Section 39(4) which became effective on August 24, 2018. NYSEG proposes to include language in its tariff explaining a residential customer's ability to request a meter read on a date other than the customer's regularly scheduled meter read date which includes that the Company shall attempt to read it, render a final bill and at the Company's option terminate the service. The proposed amendment has an effective date of May 1, 2019.

The full text of the filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-M-0679SP8)

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Residential Meter Reading**

**I.D. No.** PSC-04-19-00021-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a proposal filed by the New York State Electric & Gas Corporation to modify its electric tariff schedule, P.S.C. No. 119, regarding a new provision relating to residential meter reading.

**Statutory authority:** Public Service Law, sections 39(4), 65 and 66

**Subject:** Residential meter reading.

**Purpose:** To establish provisions for a special meter read for when service is discontinued to residential customers.

**Substance of proposed rule:** The Commission is considering a tariff filing filed by the New York State Electric & Gas Corporation (NYSEG or the Company) on December 20, 2018, to amend its electric tariff schedule, P.S.C. No. 119.

NYSEG proposes to modify General Information Section 4.M, Termination of Service Due to Customer Request, to establish a new provision for meter reading for the discontinuation of utility service to residential customers in accordance with the recently enacted Public Service Law Section 39(4) which became effective on August 24, 2018. NYSEG proposes to include language in its tariff explaining a residential customer's ability to request a meter read on a date other than the customer's regularly scheduled meter read date which includes that the Company shall attempt to read it, render a final bill and at the Company's option terminate the service. The proposed amendment has an effective date of May 1, 2019.

The full text of the filing and the full record of the proceeding may be

reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-M-0679SP7)

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Residential Meter Reading**

**I.D. No.** PSC-04-19-00022-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a proposal filed by the Village of Rockville Centre to modify its electric tariff schedule, P.S.C. No. 3, regarding a new provision relating to residential meter reading.

**Statutory authority:** Public Service Law, sections 39(4), 65 and 66

**Subject:** Residential meter reading.

**Purpose:** To establish provisions for a special meter read for when service is discontinued to residential customers.

**Substance of proposed rule:** The Commission is considering a tariff filing by the Village of Rockville Centre (the Village) on December 12, 2018, to amend its electric tariff schedule, P.S.C. No. 3.

The Village proposes to modify Service Classification No. 3 – Residential Service, to establish a new provision for meter reading for the discontinuation of utility service to residential customers in accordance with the recently enacted Public Service Law Section 39(4), which became effective on August 24, 2018. The Village proposes to include language in its tariff explaining a residential customer’s ability to request a meter read on a date other than the customer’s regularly scheduled meter read date. The Village proposes to specify a fee of \$25 for all special meter reads requested by the customer. The proposed amendment has an effective date of May 1, 2019.

The full text of the filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-M-0679SP6)

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Residential Meter Reading**

**I.D. No.** PSC-04-19-00023-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a proposal filed by Orange and Rockland Utilities, Inc. to modify its electric tariff schedule, P.S.C. No. 3, regarding a new provision relating to residential meter reading.

**Statutory authority:** Public Service Law, sections 39(4), 65 and 66

**Subject:** Residential meter reading.

**Purpose:** To establish provisions for a special meter read for when service is discontinued to residential customers.

**Substance of proposed rule:** The Commission is considering a tariff filing by Orange and Rockland Utilities, Inc. (O&R) on January 4, 2019, to amend its electric tariff schedule, P.S.C. No. 3.

O&R proposes to modify General Information Section 7.4(A) Meter Reading Residential, to establish a new provision for meter reading for the discontinuation of utility service to residential customers in accordance with the recently enacted Public Service Law Section 39(4), which became effective on August 24, 2018. O&R proposes to include language in its tariff explaining a residential customer’s ability to request a meter read on a date other than the customer’s regularly scheduled meter read date. O&R also proposes to charge a fee of \$20 for the meter read. The proposed amendment has an effective date of May 1, 2019.

The full text of the filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-M-0679SP16)

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Residential Meter Reading**

**I.D. No.** PSC-04-19-00024-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a proposal filed by Orange and Rockland Utilities, Inc. to modify its gas tariff schedule, P.S.C. No. 4, regarding a new provision relating to residential meter reading.

**Statutory authority:** Public Service Law, sections 39(4), 65 and 66

**Subject:** Residential meter reading.

**Purpose:** To establish provisions for a special meter read for when service is discontinued to residential customers.

**Substance of proposed rule:** The Commission is considering a tariff filing by Orange and Rockland Utilities, Inc. (O&R) on January 4, 2019, to amend its gas tariff schedule, P.S.C. No. 4.

O&R proposes to modify General Information Section 6.4(3) Special Meter Readings, to establish a new provision for meter reading for the discontinuation of utility service to residential customers in accordance with the recently enacted Public Service Law Section 39(4), which became effective on August 24, 2018. O&R proposes to include language in its

tariff explaining a residential customer's ability to request a meter read on a date other than the customer's regularly scheduled meter read date. O&R also proposes to charge a fee of \$20 for the meter read. The proposed amendment has an effective date of May 1, 2019.

The full text of the filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-M-0679SP17)

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Customer Consent to Contact**

**I.D. No.** PSC-04-19-00025-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a proposal filed by KeySpan Gas East Corporation d/b/a National Grid (KEDLI) to modify its gas tariff schedule P.S.C. No. 1, to establish a new provision, Customer Consent to Contact.

**Statutory authority:** Public Service Law, sections 65 and 66

**Subject:** Customer Consent to Contact.

**Purpose:** To include a new provision establishing customer consent for the utility to contact them electronically about utility service.

**Substance of proposed rule:** The Commission is considering a proposal filed by KeySpan Gas East Corporation d/b/a National Grid (KEDLI or the Company) on December 10, 2018, to amend its gas tariff schedule, P.S.C. No. 1.

The Company proposes to add a new provision, Customer Consent to Contact, which is intended to clarify the customer's consent to receive autodialed and prerecorded/artificial calls and texts (collectively "communications") from the Company or its agents that are closely related to the utility service, and limiting such communications to those that warn about planned or unplanned service outages; provide updates about service outages or service restoration; provide notification of meter work or other field work related to the customer's utility service; provide notification of the possibility of qualifying for lower-cost service; and calls relating to handling, servicing and billing of a customer's account. Calls may include contact from companies working on KEDLI's behalf to service customers' accounts. Message and data rates may apply. Customers may also stop these communications by responding in a text message or contacting KEDLI to request removal of their phone number via a call to KEDLI's customer service, an email, or by mail. The proposed amendments have an effective date of May 1, 2019.

The full text of the proposal and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-M-0756SP1)

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Customer Consent to Contact**

**I.D. No.** PSC-04-19-00026-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a proposal filed by Niagara Mohawk Power Corporation d/b/a National Grid to modify its electric tariff schedule P.S.C. No. 220, to establish a new provision, Customer Consent to Contact.

**Statutory authority:** Public Service Law, sections 65 and 66

**Subject:** Customer Consent to Contact.

**Purpose:** To include a new provision establishing customer consent for the utility to contact them electronically about utility service.

**Substance of proposed rule:** The Commission is considering a proposal filed by Niagara Mohawk Power Corporation d/b/a National Grid (NMPC or the Company) on December 10, 2018, to amend its electric tariff schedule, P.S.C. No. 220.

The Company proposes to add a new provision, Customer Consent to Contact, which is intended to clarify the customer's consent to receive autodialed and prerecorded/artificial calls and texts (collectively "communications") from the Company or its agents that are closely related to the utility service, and limiting such communications to those that warn about planned or unplanned service outages; provide updates about service outages or service restoration; provide notification of meter work or other field work related to the customer's utility service; provide notification of the possibility of qualifying for lower-cost service; and calls relating to handling, servicing and billing of a customer's account. Calls may include contact from companies working on NMPC's behalf to service customers' accounts. Message and data rates may apply. Customers may also stop these communications by responding in a text message or contacting NMPC to request removal of their phone number via a call to NMPC's customer service, an email, or by mail. The proposed amendment has an effective date of May 1, 2019.

The full text of the proposal and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-M-0756SP2)

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Customer Consent to Contact**

**I.D. No.** PSC-04-19-00027-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a proposal filed by The

Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY) to modify its gas tariff schedule P.S.C. No. 12, to establish a new provision, Customer Consent to Contact.

**Statutory authority:** Public Service Law, sections 65 and 66

**Subject:** Customer Consent to Contact.

**Purpose:** To include a new provision establishing customer consent for the utility to contact them electronically about utility service.

**Substance of proposed rule:** The Commission is considering a proposal filed by The Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY or the Company) on December 10, 2018, to amend its gas tariff schedule, P.S.C. No. 12.

The Company proposes to add a new provision, Customer Consent to Contact, which is intended to clarify the customer's consent to receive autodialed and prerecorded/artificial calls and texts (collectively "communications") from the Company or its agents that are closely related to the utility service, and limiting such communications to those that warn about planned or unplanned service outages; provide updates about service outages or service restoration; provide notification of meter work or other field work related to the customer's utility service; provide notification of the possibility of qualifying for lower-cost service; and calls relating to handling, servicing and billing of a customer's account. Calls may include contact from companies working on KEDNY's behalf to service customers' accounts. Message and data rates may apply. Customers may also stop these communications by responding in a text message or contacting KEDNY to request removal of their phone number via a call to KEDNY's customer service, an email, or by mail. The proposed amendment has an effective date of May 1, 2019.

The full text of the proposal and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-M-0756SP4)

## PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

### Customer Consent to Contact

**I.D. No.** PSC-04-19-00028-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** The Commission is considering a proposal filed by Niagara Mohawk Power Corporation d/b/a National Grid to modify its gas tariff schedule P.S.C. No. 219, to establish a new provision, Customer Consent to Contact.

**Statutory authority:** Public Service Law, sections 65 and 66

**Subject:** Customer Consent to Contact.

**Purpose:** To include a new provision establishing customer consent for the utility to contact them electronically about utility service.

**Substance of proposed rule:** The Commission is considering a proposal filed by Niagara Mohawk Power Corporation d/b/a National Grid (NMPC or the Company) on December 10, 2018, to amend its gas tariff schedule, P.S.C. No. 219.

The Company proposes to add a new provision, Customer Consent to Contact, which is intended to clarify the customer's consent to receive autodialed and prerecorded/artificial calls and texts (collectively "communications") from the Company or its agents that are closely related to the utility service, and limiting such communications to those that warn about planned or unplanned service outages; provide updates about service outages or service restoration; provide notification of meter work or

other field work related to the customer's utility service; provide notification of the possibility of qualifying for lower-cost service; and calls relating to handling, servicing and billing of a customer's account. Calls may include contact from companies working on NMPC's behalf to service customers' accounts. Message and data rates may apply. Customers may also stop these communications by responding in a text message or contacting NMPC to request removal of their phone number via a call to NMPC's customer service, an email, or by mail. The proposed amendments have an effective date of May 1, 2019.

The full text of the proposal and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Public comment will be received until:** 60 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-M-0756SP3)

## Workers' Compensation Board

### PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

**Fees for Emergency Room, Rural Area Outpatient Clinics, Hospital Based Mental Health Clinics and Private Psychiatric Hospitals**

**I.D. No.** WCB-04-19-00029-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** Amendment of Subpart 329-3 of Title 12 NYCRR.

**Statutory authority:** Workers' Compensation Law, sections 13 and 117

**Subject:** Fees for emergency room, rural area outpatient clinics, hospital based mental health clinics and private psychiatric hospitals.

**Purpose:** Update and incorporate fees for medical services provided to injured workers.

**Text of proposed rule:** Subpart 329-3 of 12 NYCRR is hereby amended to amend section 329-3.1 and add new sections 329-3.3 and 329-3.4

SUBPART 329-3 [OUTPATIENT HOSPITAL SERVICES] **EMERGENCY ROOM, HOSPITAL-BASED MENTAL-HEALTH CLINIC SERVICES, AND RURAL OUTPATIENT CLINIC SERVICES FEE SCHEDULE**

Section 329-3.1. Schedule of rates for [outpatient] hospital *emergency room services*

The fee schedule applicable to [outpatient hospital services, including minor surgery or] *hospital emergency room services* [treatment rendered in a room other than an operating room,] shall be *one hundred fifty percent of the Department of Health's EAPG Base Rates Fees as published on the table of EAPG Weights, Procedure Based Weights and Units on the Department of Health's website, as described in (a) and (b) below, and payable under the enhanced ambulatory patient grouping (EAPG) methodology governing reimbursement for hospital emergency department services on the date the emergency room services were rendered regardless of the date of accident or disability and, as set forth herein and subject to WCB specific adjustments.*

(a) *EAPG methodology means the methodology developed and published by Minnesota Mining and Manufacturing Corporation (3M), including the software developed to process CPT-4 and ICD-10 code information to assign patient visits to the appropriate EAPG category or categories and apply appropriate bundling, packaging, consolidation and discount-*

ing to assign the appropriate final EAPG weight and associated reimbursement.

(b) The table of EAPG Weights, Procedure Based Weights and Units, and EAPG Fee Schedule fees and units for each effective period are published on the New York State Department of Health website at: [http://www.health.state.ny.us/health\\_care/medicaid/rates/apg/docs/apg\\_payment\\_components.xls](http://www.health.state.ny.us/health_care/medicaid/rates/apg/docs/apg_payment_components.xls) and are herein incorporated by reference. Copies of the EAPG Fee Schedule fees and units may be downloaded without cost. Hard copies can also be requested by email at GENERAL\_INFORMATION@wcb.ny.gov or by submitting a request in writing to the New York State Workers' Compensation Board, 328 State Street, Schenectady, New York 12305-2318.

[the outpatient fee schedule in effect on the date on which the outpatient hospital services were rendered, regardless of the date of accident.]

#### Section 329-3.3 Schedule of Rates for Rural Outpatient Clinics

(a) For the purposes of this section, Rural Outpatient Clinic means a medical clinic (i) which is located in a rural area that meets the definition of a Health Professional Shortage Area, as defined in section 254e of Title 42 of the U.S. Code; (ii) and is listed at <https://data.hrsa.gov/tools/shortage-area/hpsa-find> as a facility located in New York State, offering primary care services in an area identified as rural or partially rural with a HPSA score of 15 to 26; and (iii) where on-site direct authorized physician supervision is not available and the physician assistant or nurse practitioner rendering medical care is only able to communicate with a Board authorized physician supervisor by telephone or other effective means of communication.

(b) The fee schedule for Rural Outpatient Clinic facility services shall be the fees for Clinics in the Upstate region on the date the service is rendered and as published on the New York State Department of Health website at: [https://www.health.ny.gov/health\\_care/medicaid/rates/apg/rates/hospital/hosp\\_base\\_rates\\_5-2-15.htm](https://www.health.ny.gov/health_care/medicaid/rates/apg/rates/hospital/hosp_base_rates_5-2-15.htm)

(c) Such fees shall be in addition to fees payable pursuant to Subpart 329-1 of this Part (Medical Fee Schedule).

#### Section 329-3.4 Schedule of Rates for Outpatient Hospital Based Mental Health Clinics and Private Psychiatric Hospitals

##### (a) Outpatient Hospital Based Mental Health Clinics

1. means a mental health clinic associated to a hospital that possesses the required operating certificate under Article 31 of the Mental Hygiene Law as required by subdivision (a)(2) of section 31.02 of that Article when such Clinic provides medical care and treatment to workers' compensation claimants by a Board authorized psychiatrist, psychologist or physician with a rating code of PN-ADP (Addiction Medicine) or PN-PM (Pain Management) or under the active and personal supervision of a Board authorized psychiatrist or Board authorized physician with a rating code of PN-ADP (Addiction Medicine) or PN-PM (Pain Management).

2. The fee schedule for Hospital Based Mental Health Clinic facility services shall be the APG Peer Group Base Rates on the date the service is rendered and as published on the New York State Office of Mental Health website at: [https://www.omh.ny.gov/omhweb/medicaid\\_reimbursement/](https://www.omh.ny.gov/omhweb/medicaid_reimbursement/)

3. Such fees shall be in addition to fees payable pursuant to Subpart 329-1 of this Part (Medical Fee Schedule) and section 333.2 of this Chapter (Behavioral Health Fee Schedule).

##### (b) Private Psychiatric Hospital Inpatient Services

1. Private Psychiatric Hospitals are listed on the New York State Office of Mental Health website at: [https://omh.ny.gov/omhweb/medicaid\\_reimbursement/](https://omh.ny.gov/omhweb/medicaid_reimbursement/)

2. The facility fees for the listed Private Psychiatric Hospitals shall be the rates published by New York State Office of Mental Health and associated to each listed hospital.

3. Fees for inpatient psychiatric services provided by a hospital other than those listed as Private Psychiatric Hospitals shall be at the Inpatient Hospital Fee Schedule rate for the year the service is rendered and published on the Board's website.

**Text of proposed rule and any required statements and analyses may be obtained from:** Heather MacMaster, Workers' Compensation Board, Office of General Counsel, 325 State Street, Schenectady, New York 12305-2318, (518) 486-9564, email: [regulations@wcb.ny.gov](mailto:regulations@wcb.ny.gov)

**Data, views or arguments may be submitted to:** Same as above.

**Public comment will be received until:** 60 days after publication of this notice.

**This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.**

#### Regulatory Impact Statement

##### 1. Statutory Authority

The Chair of the Workers' Compensation Board (Board) is authorized to amend Part 329 of 12 NYCRR. The Board's authority is derived from Workers' Compensation Law (WCL) § 13 which authorizes the Chair to set fees for medical services and § 117(1), which authorizes the Chair to

adopt reasonable regulations consistent with and supplemental to the provisions of the WCL and the Labor Law.

##### 2. Legislative Objectives

WCL § 13 authorizes the Chair to set fees for medical services and WCL § 117(1) authorizes the Chair to adopt reasonable regulations to supplement the WCL. The fee schedule set forth in Subpart 329-3 has not been updated since its adoption in 1995, and there is no fee schedule for clinic services or private psychiatric hospitals in the Workers' Compensation Law or regulations. Accordingly, the proposed rule will bring a much-needed update to the emergency room fee schedule and establish rural area outpatient clinic, hospital based mental health clinic and private psychiatric hospital fee schedules.

##### 3. Needs and Benefits

The Board believes that the proposed amendments are necessary to bring Subpart 329-3 up to date with the current economy and wages, given that the emergency room fee schedule has not been updated since its adoption in 1995 and there are no existing clinic or private psychiatric hospital fee schedules. The clinic fee schedules are necessary to ensure that workers' compensation claimants have access to necessary medical care in rural areas and for mental health services. The new fee schedules for clinics and hospitals use existing fee schedules created by the Department of Health and Office of Mental Health.

##### 4. Costs

The proposed rule imposes costs on insurance carriers and self-insured employers to the extent that the proposed rule increases the emergency room services reimbursement rate and establishes a fee schedule for clinic services and private psychiatric hospitals. Nevertheless, the proposed increase for emergency room services is long overdue, as the fees have not increased in 23 years (since 1995). Additionally, establishing a set fee schedule for clinic services and private psychiatric hospitals will ultimately help carriers and self-insured employers by providing a clear and accepted method for determining the reimbursement rate for such services.

##### 5. Local Government Mandates

The proposed regulation does not impose any program, service, duty, or responsibility upon any county, city, town, village, school district, fire district, or other special district.

##### 6. Paperwork

The proposed regulation does not impose any reporting requirements.

##### 7. Duplication

There is no duplication of state or federal regulations or standards.

##### 8. Alternatives

No significant alternatives to the proposed regulation were considered. The Board could not amend the fee schedule, but this would result in the continued underpayment for emergency room services and the continued uncertainty in payment for patients in rural areas and for in-patient psychiatric treatment. These are areas that are underserved in the Workers' Compensation system.

##### 9. Federal Standards

There are no applicable federal standards which address the standards contained in the proposed regulation.

##### 10. Compliance Schedule

The only obligations this rule imposes on carriers and self-insured employers is to pay the emergency room and clinic services at the scheduled rate. Given that these parties already must pay claimants' medical expenses related to an established injury or condition, parties are expected to be able to comply upon the effective date of the regulation.

#### Regulatory Flexibility Analysis

##### 1. Effect of rule

The Board expects the proposed rule to have minimal impact on small businesses or local governments within New York State. The proposed regulation merely provides an overdue update to the fee schedule for emergency room services and provides a fee schedule for clinic services and private psychiatric hospitals.

##### 2. Compliance requirements

The proposed fee schedules are mandatory for all medical providers, insurance carriers, self-insured employers, group self-insurance trusts, and third-party administrators. Medical providers will be required to bill in accordance with the updated fee schedules and payers, including self-insured local governments will be required to pay according to them. It is expected that all affected parties are familiar with these fee schedules as they are currently used across the state for many services. Accordingly, compliance efforts should be minimal.

##### 3. Professional services

The Board does not expect that small businesses and local governments will need to obtain professional services as the changes are easily incorporated and, it is believed are already being used by affected parties.

##### 4. Compliance costs

Given the minimal changes required by the proposed rule, no specific compliance costs are anticipated for small businesses and local governments.

## 5. Economic and technological feasibility

The Board does not expect small businesses or local governments to bear economic or technological costs as a result of the amendments to Subpart 329-3.

## 6. Minimizing adverse impact

The Board does not anticipate that the proposed rule will have an adverse economic impact on small businesses or local governments. Indeed, the proposed amendments to Subpart 329-3 are expected to benefit medical service providers, including those who may practice in a small business setting, insofar as the proposed rule will provide the first increase in emergency service fees since the fee schedule's adoption in 1995, and the proposal will establish clear fees for services rendered to claimants in a clinical setting or private psychiatric hospital.

## 7. Small business and local government participation

The Board did not do specific outreach with small businesses or local government, but the Board did have discussions with Department of Health and Office of Mental Health about use of these fee schedules. The Board will duly consider all public comments made by small business and local government stakeholders in response to the proposed rulemaking.

**Rural Area Flexibility Analysis**

## 1. Types and estimated numbers of rural areas:

The proposed regulations include a fee schedule for rural area outpatient clinics to address provider shortages and ensure access to care. The regulation proposes adoption of an existing fee schedule for payment to existing clinics in rural areas in order to facilitate treatment of workers' compensation claimants.

## 2. Reporting, recordkeeping and other compliance requirements; and professional services:

The regulations propose a fee structure to ensure that people have access to care in rural areas where there is a shortage of health professionals. To the extent that the fee schedule requires compliance with those fee schedules, rural areas may be minimally affected.

## 3. Costs:

The proposal uses an already developed framework for the fee schedule and minimizes costs associated with creating a new fee schedule. The proposal sets fees for services, but the proposed regulations utilize existing clinics and would adopt an existing fee schedule for these services. This addresses uncertainty as to payment in the provider community, but incorporates a fee schedule that providers and others in rural areas understand. Copies of the fee schedule in this proposed regulation are available online for download without cost.

## 4. Minimizing adverse impact:

The Chair utilized an existing federal framework to identify existing rural area clinics. Additionally, the fee schedule in the proposed rule uses an already existing framework for the fee structure, and addresses health care professional shortages and seeks to ensure that those in rural areas can receive necessary care.

## 5. Rural area participation:

Rural areas did not participate as these clinics and the fee schedule being proposed are already in place. The Board will conduct outreach to affected clinics to ensure they are aware of the fees available when treating injured workers.

**Job Impact Statement**

The proposed rule will not have an adverse impact on jobs. The proposed rule would amend Part 329 of the Board's regulations to update the fees payable for emergency room, clinic services and private psychiatric hospitals. The emergency room fee schedule has not been updated since its adoption in 1995, and currently there is no fee schedule for rural outpatient clinic services or private psychiatric hospitals. The amended regulation will therefore provide for a much-needed update to the fee schedule for services used by workers' compensation claimants. The rule does not eliminate any existing process, procedure, or program, and will not result in an adverse impact on jobs.

## REVISED RULE MAKING NO HEARING(S) SCHEDULED

**Establishment of Prescription Drug Formulary**

**I.D. No.** WCB-52-17-00021-RP

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following revised rule:

**Proposed Action:** Addition of Part 441 to Title 12 NYCRR.

**Statutory authority:** Workers' Compensation Law, sections 13-p, 117 and 142

**Subject:** Establishment of Prescription Drug Formulary.

**Purpose:** Establishment of a drug formulary that includes high-quality and cost-effective pre-authorized medication.

**Substance of revised rule (Full text is posted at the following State website: [www.wcb.ny.gov](http://www.wcb.ny.gov)):** Subchapter M of Chapter V of Title 12 of NYCRR is amended to add a new Part 441 as follows:

## 441 Formulary

441.1 Definitions. Contains definitions of the following terms: Compound drug, Disability event, Dispense, FDA-approved drug, FDA OTC Monograph, Generic drug, Carrier's Physician, Formulary, Unlisted Drug, Perioperative Formulary drug, Phase A Drug, Phase B drug, Prior Authorization process, Prior Authorization and URAC.

441.2 New York Workers' Compensation Formulary. Incorporates the three lists of the Formulary by reference into this Part and describes the lists: Phase A lists Formulary drugs that may be prescribed during the first 30 days; Phase B lists Formulary drugs that may be prescribed after the 30th day or when accepted by the insurance carrier. This section also describes how to obtain copies of the Formulary lists.

441.3 Effective Dates and Notice. Sets forth that new prescriptions must be prescribed pursuant to the Formulary within 6 months of the effective date of the Formulary; that refills and renewals must be prescribed pursuant to the Formulary within 12 months of the effective date of the Formulary; that Notice must be given to claimants on non-Formulary agents and their providers within 6 months of the effective date of the Formulary.

441.4 Application of Formulary. This section describes in detail how drugs may be prescribed consistent with Phase A, B or the Perioperative Formulary. This section also identifies when Prior Authorization may be required.

441.5 Prior Authorization Process. This section details when Prior Authorization is required. It details the process for requesting Prior Authorization from the Carrier and describes the rules governing the insurance carrier's review of such requests.

441.6 Review by the Board of a Prior Authorization Denial. This section sets forth the process for review by the Board's Medical Director's Office of a carrier denial of a Prior Authorization request.

441.7 Changes to the Formulary. This section describes the process for requesting changes to the drugs listed in the Formulary and the timing thereof.

441.8 Medical Treatment Guidelines and Formulary. This sections states that should there be an inconsistency or conflict between the Formulary and the Medical Treatment Guidelines (MTG), the MTG shall govern.

**Revised rule compared with proposed rule:** Substantial revisions were made in Part 441.

**Text of revised proposed rule and any required statements and analyses may be obtained from** Heather MacMaster, Workers' Compensation Board, 328 State Street, Office of General Counsel, Schenectady, New York 12305-2318, (518) 486-9564, email: [regulations@wcb.ny.gov](mailto:regulations@wcb.ny.gov)

**Data, views or arguments may be submitted to:** Same as above.

**Public comment will be received until:** 30 days after publication of this notice.

**Additional matter required by statute:** The proposed Phase A, Phase B, and the Perioperative Formulary are published at: [www.wcb.ny.gov](http://www.wcb.ny.gov)

**Revised Regulatory Impact Statement**

A revised Regulatory Impact Statement is not required because the changes made to the last published rule do not necessitate revision to the previously published document. The changes to the text still seek to adopt a comprehensive drug formulary in a way that accomplishes the goals highlighted in the Regulatory Impact Statement. These changes, while some of them are substantial, do not affect the meaning of any statements in the document.

**Revised Regulatory Flexibility Analysis**

A revised Regulatory Flexibility Analysis is not required because the changes made to the last published rule do not necessitate revision to the previously published document. The changes to the text still seek to adopt a comprehensive drug formulary in a way that accomplishes the goals highlighted in the Regulatory Impact Statement. These changes, while some of them are substantial, do not affect the meaning of any statements in the document.

**Revised Rural Area Flexibility Analysis**

A revised Rural Area Flexibility Analysis is not required because the changes made to the last published rule do not necessitate revision to the previously published document. The changes to the text still seek to adopt a comprehensive drug formulary in a way that accomplishes the goals highlighted in the Regulatory Impact Statement. These changes, while some of them are substantial, do not affect the meaning of any statements in the document.

**Revised Job Impact Statement**

A revised Job Impact Statement is not required because the changes made to the last published rule do not necessitate revision to the previously published document. The changes to the text still seek to adopt a comprehensive drug formulary in a way that accomplishes the goals highlighted in the Regulatory Impact Statement. These changes, while some of them are substantial, do not affect the meaning of any statements in the document.

**Assessment of Public Comment**

The Chair and the Board received approximately 32 unique written comments and 39 form letters in response to the revised proposed adoption of Part 441 of 12 NYCRR and the Formulary incorporated by reference therein. The public comment period remained open through November 16, 2018.

Multiple commenters commended the Board on the proposed Formulary.

Several commenters generally disagreed with the establishment of a Formulary on the ground that it would hurt claimants and medical providers. One such commenter suggested that the Board create a new formulary, in which all prescription drugs not included as first- or second-line therapies would be authorized if they are prescribed in accordance with the Medical Treatment Guidelines (MTGs). In response, the Board notes that it is statutorily required to implement a comprehensive drug formulary, pursuant to Workers' Compensation Law section 13-p.

Several commenters expressed concern that the proposed Formulary and regulations contradict the MTGs. Section 441.8 of the proposed regulations provide that where a conflict between the Formulary and MTGs exists, and the MTGs are applicable, the MTGs prevail. Accordingly, no changes are necessary in response to this comment.

Several parties questioned whether carriers are required to pay for drugs when the claim is controverted, and asked that the regulations provide clarification. Section 441.3(b) provides that the Formulary applies to prescriptions for accidents or injuries that are controverted by the insurance carrier or self-insured employer. Section 441.3(c) further provides that the Pharmacy Fee Schedule set forth in Part 440 of 12 NYCRR remains in effect and includes pricing for prescriptions including payments for prescriptions when the claim is controverted. Accordingly, the Board finds that no changes are necessary.

One pharmacy requested that pharmacy benefit managers (PBMs) be permitted to use their own proprietary tools in addition to the NYS Formulary. The Board notes that nothing in the regulation prohibits PBMs from using proprietary tools that are consistent with the Formulary. Therefore, no changes have been made to the proposed regulations as a result of this comment.

One medical provider group requested that the Formulary be free of charge and easily accessible online to all providers in NYS. The Board notes that the Formulary will be posted, free of charge, on the Board's website, and will also be available on the Board's Medical Portal.

One medical provider group expressed concern that the regulations do not incorporate "step therapy protocols" as set forth in the Insurance Law and Public Health Law. Step therapy protocols are not applicable to Workers' Compensation Insurance. Accordingly, no changes have been made to the revised proposed regulations as a result of this comment.

One pharmacy recommended that the Formulary and its instructions be updated to include the specific NCCI or ICD-10 codes associated with each of the diagnosis categories. The suggestion is beyond the scope of the Formulary. Accordingly, no changes have been made to the revised proposed regulations as a result of this comment.

One pharmacy asked the Board to clarify whether the Formulary is intended to cover all forms and strengths of particular drug. The Formulary has been clarified on this point with respect to different dosages in brand name versus generic form.

One insurance company recommended that the regulations limit the number of providers that can prescribe drugs for a claimant, so there is no risk in multiple providers prescribing medications for the same body part or injury. The Formulary and New York State Public Health Law provide safeguards regarding over-prescribing. It is noted that the Formulary is not a Treatment Guideline. Accordingly, no change has been made as a result of this comment.

One pharmacy expressed concern that the pharmacy fee schedule, when read in conjunction with the proposed Formulary, suggests that claimants will have to pay out of pocket for over-the-counter drugs, even if they are listed on the Formulary in the applicable Phase. In response, the Board notes that section 441.4 of the proposed Formulary regulation provides that "[o]ver-the-counter Formulary drugs when prescribed by a Board authorized practitioner should be billed directly to the carrier or its pharmacy benefits manager." Accordingly, the Board finds that no changes are necessary to this regulation or the Formulary.

One insurance company recommended that the Formulary also include

pricing fee(s) for compound drugs, which ideally would be a single dispensing fee for compound medications. Comments regarding drug pricing apply to a separate regulation, the proposed Pharmacy Fee Schedule regulation. As such, the Board finds that no changes are necessary to this regulation or the Formulary incorporated by reference therein.

**441.1 Definitions**

Multiple parties suggested that the Board redefine "carrier's physician" to make it clear that a carrier may designate more than one physician. One pharmacy also recommended that this definition be changed to remove the requirement that the physician not be employed by a PBM. The Board has amended the definition of "carrier's physician" in section 441.1(g) of the revised proposal to clarify that it may include multiple physicians. Due to conflict of interest concerns, however, the Board declines to omit the requirement that a carrier's physician not be employed or contracted by the carrier's PBM.

Several commenters expressed confusion about the definition of "disability event." The Board acknowledges these concerns and no longer uses the term "disability event" in the regulations. Section 441.1(b) of the revised proposed regulations now uses the term "accident or injury."

One workers' compensation consultant group recommended expanding the definition of "Prior Authorization." The Board finds changes unnecessary given the detailed description of the Prior Authorization process, set forth in section 441.5 of the revised proposed regulations.

Several commenters asked that the definition of "compound drug" be amended to state that all compound medications, regardless whether the compound includes a Formulary drug, require Prior Authorization. Section 441.5(a) of the revised proposal requires Prior Authorization for all non-Formulary drugs. Therefore, if a compound is comprised of any non-Formulary drugs, Prior Authorization will still be required. Accordingly, the Board finds that no changes are necessary as a result of this comment.

One workers' compensation consultant group recommended that the Board amend that part of the definition of "generic drug" which references drugs "in a different strength/dosage." The commenter noted that this phrase is unnecessary because stakeholders already know when a brand name drug can be substituted for a generic drug. The Board finds that no changes are necessary as a result of this comment, as the Board believes that the phrase "in a different strength/dosage" provides greater clarity for all stakeholders, including those less familiar with generic drug dispensing rules.

**441.3 Applicability, Effective Dates and Notice**

Several commenters disagreed with the requirement that carriers and self-insured employers notify claimants and medical providers that the claimant is prescribed a non-Formulary drug and identify equivalent Formulary drugs. The Board has modified the proposed regulation in response to these comments.

Several commenters asked that the applicability of the Formulary to refill and renewal prescriptions be clarified. One such commenter specifically asked that the regulations clarify that the 12-month extension applies only to refills and renewals of drugs last prescribed prior to the effective date of the Formulary, otherwise the regulation could be interpreted to apply to the refill or renewal of a medication that was originally prescribed after the effective date of the Formulary. In response to this comment, sections 441.1(q) and (r) of the revised proposed regulations now define "refill" and "renewal" prescriptions. The Board believes that the addition of these definitions clarifies the Formulary's applicability to such prescriptions.

One insurance company recommended that the regulations expressly state that the Formulary applies to no fault insurance claims. The Workers' Compensation Board does not have jurisdiction over no fault insurance claims; no fault insurance is regulated by the New York State Department of Financial Services. As such, the Board cannot implement the suggested change.

One workers' compensation consultant group asked that the regulations clarify whether the Formulary applies when a medical provider dispenses the medication directly to the claimant during an office visit. In response to this comment, the revised proposal adds sections 441.3(d) and (e), regarding the applicability of the Formulary to medical provider dispensing.

One law firm asked that the regulations clarify whether the Formulary applies to out-of-state providers. In response to this comment, the Board notes that the introductory paragraph in section 441.3 of the revised proposal states that the Formulary applies "regardless of where the claimant lives." The is no similar statement that the Formulary applies regardless of where the claimant seeks treatment. Therefore, no changes have been made as a result of this comment.

**441.5 Prior Authorization Process**

A number of commenters expressed that the Prior Authorization process would be too burdensome. As the statute requires the Board to include a process for Prior Authorizations, insofar as it is necessary to ensure that those claimants whose needs cannot be met through a Formulary drug

have other treatment options, the Prior Authorization process remains included in the revised proposed regulation.

Several parties requested that the Board develop the format to request Prior Authorization prior to the adoption of the regulations. The Board finds that no changes are needed to the regulations as a result of this comment. As with other Board-prescribed forms, the Board will establish the format with ample time for stakeholders to integrate it into their systems.

Multiple commenters recommended that Prior Authorization also be required for drugs that are prescribed for off-label uses. In response, the Board notes that it cannot prohibit medically-necessary off-label use of drugs.

Several commenters asked the Board to clarify whether “4 days” means business or calendar days. The Board acknowledges this concern and has clarified throughout the revised proposal that the timeframe is 4 calendar days.

A number of parties commented that reviewing Prior Authorization requests in 4 calendar days is too burdensome, and many requested that the length of time be extended to at least 4 business days. The Board consulted with stakeholders in drafting the proposed regulation and finds that 4 calendar days is an appropriate amount of time to decide Prior Authorization requests. Moreover, some stakeholders have requested a shorter review period. In balancing these comments, the Board finds it is best to leave the review timeline as 4 calendar days.

Several commenters opined that 4 calendar days is too long and requested a shorter Prior Authorization approval period, such as 72-hours. As indicated above, the Board consulted with stakeholders in drafting the proposed regulation and finds that 4 calendar days is an appropriate amount of time to decide Prior Authorization requests. To balance all concerns, the Board declines to change the Prior Authorization review timeline.

One workers’ compensation consultant group was generally supportive of the Prior Authorization process.

One insurance company commended the Board for no longer expressly allowing oral submission of a Prior Authorization request.

Multiple parties asked that the regulations clarify whether the carrier’s physician could also include a registered nurse. No change has been made as a result of this comment. The Board notes that the proposed regulation permits the carrier to retain more than one physician.

A number of commenters requested additional development with respect to requirement for carriers and self-insured employers to designate a contact person for Prior Authorization requests. Additionally, several commenters asked the Board to penalize carriers/self-insured employers for failure to timely designate a contact person. In response to these comments, the Board has further developed section 441.5(c) of the revised proposal.

One insurance company requested that the maximum duration of a Prior Authorization approval be shortened from 365 days to 180 days. The Board has not made a change as the result of this comment but notes that carriers have the ability to partially approve a request and shorten the duration.

One workers’ consultant group recommended including “topical creams or patches” as types of compound drugs requiring Prior Authorization, that Prior Authorization be sought both before the drug is prescribed and before it is dispensed, and that Prior Authorization requests also be submitted to a designated entity, PBM, or pharmacy network. The Board believes the drafted proposed regulations provide sufficient processes to ensure that drugs are prescribed and dispensed correctly and as such has not made any changes as a result of these comments.

Multiple commenters requested that the regulations clarify how the Board will enforce the 4-day review deadline for Prior Authorization requests. In response, section 441.5(d)(3)(ii) and 441.5(e)(4) have been added to clarify that a request for Prior Authorization that is not responded to in a timely manner may be approved for the period requested upon issuance of an Order of the Chair.

One law firm asked what penalties carriers and self-insured employers can face for failure to designate a contact person for Prior Authorization. In response, the Board has included section 441.5(c) of the revised proposed regulation, which details penalties the insurer may be subject to.

One law firm asked the Board to clarify whether all forms of a generic need to be tried before a brand name can be prescribed. When there is an available generic, a brand name drug may not be prescribed without Prior Authorization. No change has been made as a result of this comment.

One law firm recommended that, for those claimants who have been on long-term opiates, further opiate prescriptions that do not increase the morphine equivalent dosage (MED) do not require Prior Authorization unless directed by a workers’ compensation law judge. Providers with claimants on long-term opioids are able to use the Prior Authorization process in order to request that a claimant be continued on their opioid regimen. No change has been made as a result of this comment.

#### 441.6 Review by the Board of a Prior Authorization Denial

A number of commenters requested that the regulations impose a deadline for review by the Board’s Medical Director’s Office (i.e., third level review). The Board declines to permit a Prior Authorization request to be deemed approved at this final level of review. The Chair has reserved the right of the Board to enlist assistance for review of Prior Authorization request to ensure timely responses. Accordingly, no change has been made as a result of this comment.

Several commenters asked that all parties be permitted to appeal a decision of the Medical Director’s Office. The right to request a hearing has only been extended to the claimant as he or she does not participate in the three levels of prior review. The three levels of review available to medical providers and carriers is sufficient to meet due process considerations.

#### 441.7 Changes to the Formulary

One medical provider group suggested that the regulations include a 60-day implementation period between the notice of a Formulary change and the change’s effective date to allow stakeholders a reasonable time to program their systems. The Board will consult with affected parties prior to implementation of any changes to the Formulary to ensure adequate time is provided to implement the change and anticipates that the amount of time needed may vary based on the extent of the changes. Accordingly, no change has been made to the proposed regulation.

The Board also received a comment requesting that the MDO or Chair’s “designee” be defined as a medical doctor who will certify that a conflict of interest for services provided under the Formulary does not exist. The Board also received a comment requesting that the decision to include, exclude, or restrict certain drugs on the Formulary should be based on principles of evidence-based medicine to support better clinical outcomes. WCL § 13-p sets forth the criteria for consideration of new drugs and how drugs should be added to the Formulary. While the suggestions of the commenters are valuable, the Board declines to make any changes that may limit its ability to modify the Formulary as needed.

#### Formulary

A number of stakeholders requested that certain drugs be included in or removed from the proposed Formulary. Several commenters also opposed the use of four different formularies (Phases A through C and the Perioperative period). Due to these comments, the Board has substantially revised its prior proposal. Particularly, the Board has reduced the Formulary from four distinct lists to three lists (now Phase A, B, and Perioperative), and has substantially revised the Phase A and B Formularies and the Perioperative Formulary.

One insurance company requested that, with respect to the Perioperative Formulary, the regulations clarify how a provider will notify the carrier of the surgery date. The proposed regulation has been modified in response to this comment.

Several commenters noted that the Formulary omits many body parts, conditions, and illnesses. In particular, one such commenter noted that conditions such as headaches, dizziness, depression, anxiety and insomnia are not listed in the Formulary. These commenters asserted that no medications can be prescribed for unlisted body parts and conditions without Prior Authorization, which is burdensome. This is incorrect. Any Formulary drug may be prescribed for body parts or conditions that do not have a corresponding Medical Treatment Guidelines.