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June 17, 2021

Hon. Michelle L. Phillips
Secretary
Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

VIA ELECTRONIC SUBMISSION

Attn.: Case 21-M-0199 – Petition of the City of New York et al. to Comprehensively Study the Impacts of Climate Change on Utility Infrastructure

Subject: Comments of the Institute for Policy Integrity

Dear Secretary Phillips:

The Institute for Policy Integrity at New York University School of Law* (Policy Integrity) submits these comments to the New York Public Service Commission (Commission) to voice its support for the Petition that prompted the above-captioned proceeding. It is imperative that public utilities identify and assess the risks that climate change poses to their assets and operations so they may take proactive steps to mitigate harm and continue to provide necessary and affordable services. Policy Integrity is a non-partisan think tank dedicated to improving the quality of government decisionmaking through advocacy and scholarship in the fields of administrative law, economics, and public policy.

We are grateful for your consideration of the attached comments.

Respectfully,

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* This document does not purport to present the views of New York University School of Law, if any.

Comments of the Institute for Policy Integrity

New Yorkers and the utility-owned and operated systems they rely on are already experiencing impacts of climate change, and those impacts are expected to grow. In 2014, the Commission directed Consolidated Edison (ConEd) to conduct a Climate Change Vulnerability Assessment and to address the vulnerabilities it identified.[1] Since then, ConEd has completed its Vulnerability Study,[2] which has subsequently been held up as a model by those seeking to persuade other jurisdictions to follow New York's lead.[3] The Commission's 2014 order also encouraged other electric utilities to undertake their own climate resilience planning, stating that "[w]e expect the utilities to consult the most current data to evaluate the climate impacts anticipated in their regions over the next years and decades, and to integrate these considerations into their system planning and construction forecasts and budgets."[4] However, as the Petition points out, ConEd's Vulnerability Study remains unique despite the fact that many other utilities own and operate networked infrastructure systems that are, like those of ConEd, vital to residents and businesses and potentially vulnerable to climate impacts.[5]

Assessing climate-related vulnerabilities presents particular challenges, in part as a result of the complexity of the risks at issue and the related challenges of responding to them.[6] For instance, it is increasingly well understood that climate-driven risks to infrastructure—and to those that rely on it—frequently arise not from a single event or category of impact, but from multiple impacts in combination. Adverse events like a severe storm that knocks out power and a heat wave that drives up demand for power can occur in close succession,[7] and cascading failures can flow from

[1] Order Approving Electric, Gas and Steam Rate Plans in Accord with Joint Proposal, Case 13-E-0030 et al., at 71 (issued and effective Feb. 21, 2014).

[2] CONSOLIDATED EDISON, CLIMATE CHANGE VULNERABILITY STUDY (2019).

[3] *See, e.g.*, Direct Testimony of James Van Nostrand and Tyler Fitch on behalf of Vote Solar, Docket No. E-7, sub 1214, at 53–54 (Feb. 18, 2020) (presenting ConEd study as a model to emulate); Conservation Law Foundation, Petition Requesting Rulemaking on Climate Vulnerability and Adaptation Planning, 12–13 (filed with Mass. Dep't of Pub. Utils. Mar. 1, 2021) (similar).

[4] Order, *supra* note 1, at 72.

[5] Other New York utilities have taken steps in the general direction of assessing their climate-related vulnerabilities. National Grid, for instance, participated in the U.S. Department of Energy's Partnership for Energy Sector Climate Resilience. U.S. DEP'T OF ENERGY, A REVIEW OF CLIMATE CHANGE VULNERABILITY ASSESSMENTS: CURRENT PRACTICES AND LESSONS LEARNED FROM DOE'S PARTNERSHIP FOR ENERGY SECTOR CLIMATE RESILIENCE 8 (2016). What that participation involved and has yielded is unclear, however, because National Grid has not published anything like ConEd's 2019 study.

[6] *See, e.g.*, Colin Raymond et al., *Understanding and Managing Connected Extreme Events*, 10 NATURE CLIMATE CHANGE 611 (2020) (describing how events and institutional responses can combine to create feedback loops that exacerbate challenges to recovery).

[7] *See, e.g.*, Seyyed Rashid Khazeiynasab & Junjian Qi, *Resilience Analysis and Cascading Failure Modeling of Power Systems under Extreme Temperatures*, J. MODERN POWER SYS. & CLEAN ENERGY (forthcoming), https://ieeexplore.ieee.org/document/9210426 (examining how extreme temperatures exacerbate impacts of adverse events and especially of correlated events).

a problem with one system that gives rise to problems in others, such as an electricity outage that compromises operation of drinking water and wastewater management systems.[8]

The diverse and growing physical risks from the impacts of climate change that New York's utilities face will translate directly into costs if utilities are vulnerable to them. Those costs will only increase if utilities continue to fail to identify and proactively address those risks. Therefore, it would be a mistake to view compulsory climate change vulnerability assessments as simply imposing on utilities and their ratepayers a burden or cost that they otherwise would not bear. Without assessing its exposure to climate-driven risks, a utility cannot know where its vulnerabilities lie and cannot take action to mitigate harm. And so, failing to identify utilities' physical and operational vulnerabilities will not somehow prevent ratepayers from ultimately bearing the costs arising from them—if anything, leaving vulnerabilities unidentified and unaddressed makes it likely that ratepayers will pay more. Because identifying such costs is a prerequisite step toward mitigating or avoiding them effectively,[9] conduct of a climate change vulnerability assessment is rightly understood as an investment, and one that can reasonably be expected to yield net benefits.[10]

[8] *E.g.*, Hannah Northey, *'Cascading Failures' Fueled Texas Water Disaster*, E&E NEWS, Feb. 24, 2021.

[9] *Cf.* N.Y. Dep't of Fin. Servs., *Proposed Guidance for New York Domestic Insurers on Managing the Financial Risks from Climate Change* 3 (Mar. 25, 2021) (summarizing expectations of Department for insurers subject to its oversight).

[10] ROMANY M. WEBB, MICHAEL PANFIL & SARAH LADIN, CLIMATE RISK IN THE ELECTRIC SECTOR: LEGAL OBLIGATIONS TO ADVANCE CLIMATE RESILIENCE PLANNING BY ELECTRIC UTILITIES 22 (2021) (comparing cost of preparation to cost of storm damages); SADIE FRANK, ERIC GESICK, AND DAVID G. VICTOR, BROOKINGS INST., INVITING DANGER: HOW FEDERAL DISASTER, INSURANCE AND INFRASTRUCTURE POLICIES ARE MAGNIFYING THE HARM OF CLIMATE CHANGE 14 (2021) (discussing high benefit-cost ratio of investments in resilience to disasters).