Testimony of Erin Murphy, Environmental Defense Fund
September 30, 2025
Joint Public Hearing Re: Public Service Commission's Proceedings

Hello, my name is Erin Murphy, I am a Senior Attorney and Director for Clean Air and Energy Markets with Environmental Defense Fund. Thank you for the opportunity to provide testimony today regarding the important work of the Public Service Commission to implement New York's Climate Leadership and Community Protection Act.

1. The Public Service Commission is a critical agency to ensure that New York achieves its targets to reduce greenhouse gas emissions and ensure energy justice. We recognize and appreciate that the Commission is working hard to drive cost-effective climate progress on numerous fronts, in numerous statewide policy dockets. Today, I focus my remarks on another arena important to CLCPA implementation: rate cases.
2. **Utility rate cases** are the proceedings where utilities seek approval to raise rates and recover costs for major investments, typically on a 3-year cycle. The Commission itself recently stated: "While the Commission has embraced its role in implementing the CLCPA, the only tool at its disposal to pay for the investments necessary to transform the State's energy system is its utility rate-making power."[1] That statement underscores the critical importance of rate cases as a forum where the Commission must ensure that investments and priorities are aligned with state climate policy.
3. **Section 7** is the only CLCPA provision that is directly applicable in rate cases – Section 7(2) requires state agencies to consider whether their approvals and decisions are "inconsistent with or will interfere with the attainment of the statewide greenhouse gas emissions limits," and 7(3) requires that agency decisions "shall not disproportionately burden disadvantaged communities."
4. **In order to conduct an accurate assessment of GHG emissions and impacts to disadvantaged communities associated with a utility rate proposal, the Commission should have clear, consistent standards**.
    a. With regard to Section 7(2), New York State's GHG emissions limits are, by their nature, a numeric standard—specifically, NY DEC adopted GHG emissions limits of ~246 MMT CO2e in 2030 and ~61 MMT CO2e in 2050.[2]
    b. So, this is essentially a math problem. The Commission needs actionable data to make an informed decision on utility rate plans. And since **rate cases in New York are often resolved through settlement**, or a Joint Proposal, GHG emissions assessments should be required in utility rate case filings, settlement agreements, and recommended decisions issued by presiding Administrative Law Judges. And the Commission should then use that information to make its own quantitative finding as to whether a rate proposal is consistent with the GHG emissions limits.
    c. EDF has provided extensive analysis and recommendations for how the Commission should establish an emissions assessment framework.

[1] NYPSC, *Second CLCPA Informational Report* at p4 (Sept. 23, 2025), Case 22-M-0149.
[2] NY DEC limits: 245.87 MMT CO2e in 2030 and 61.47 MMT CO2e in 2050 (requiring that statewide emissions be reduced 40% by 2030 and 85% by 2050 below 1990 levels).

5. So, that's what should be happening under Section 7(2) – **what is actually happening?** Essentially, he Commission has been issuing qualitative, unstructured findings rather than conducting quantitative analysis.

    a. In early decisions after the law first took effect, this was acceptable. EDF recommended in a spring 2020 brief that the Commission should "make a determination of CLCPA compliance based on the best information available."[3] In a 2021 order, the Commission stated: "The CLCPA is still a nascent law whose implementation remains a work-in-progress in the State, albeit an important one."[4]

    b. In at least six recent Joint Proposals, formulaic, near-identical language has been used to justify CLCPA compliance: "The Joint Proposal contains provisions supportive of and in furtherance of the objectives of the CLCPA."[5] That is patently insufficient information for the Commission to make an assessment whether an agreement is consistent with state GHG emissions limits.

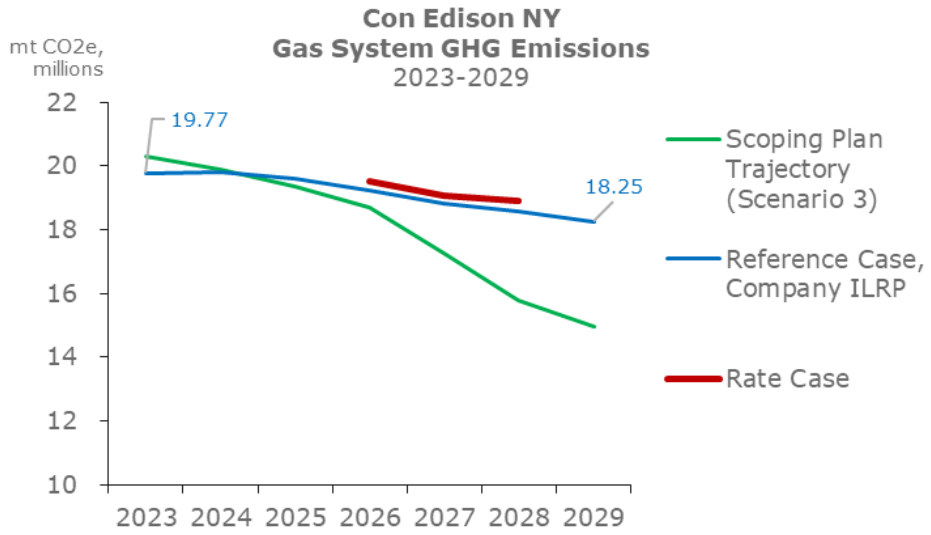
    c. And such **formulaic Joint Proposals result in relatively formulaic Commission orders**, for example: "The instant Joint Proposal contains projects and programs directly related to managing and reducing emissions that contribute to the attainment of the State's policy goals and, therefore, approval of this Joint Proposal would not be inconsistent with the CLCPA."[6]

    d. Five years into CLCPA implementation, this unstructured approach cannot continue. We are concerned that the Commission is failing to fulfill its obligations under the law.

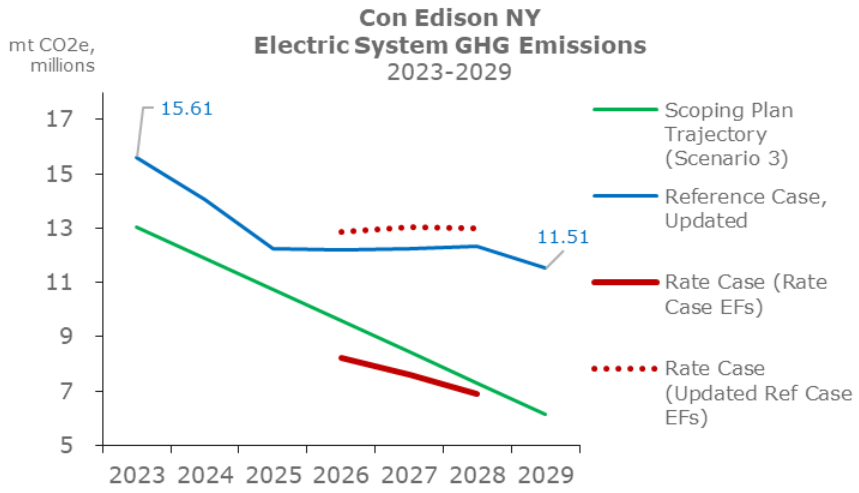
6. The Commission must complete the development of an annual GHG emissions reporting framework—which it began in 2022 but hasn't moved forward since 2023—and it must develop a framework specifically applicable to rate cases.

[3] *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of The Brooklyn Union Gas Company d/b/a National Grid NY for Gas Service & KeySpan Gas East Corp. d/b/a National Grid for Gas Service*, Cases 19-G-0309 & 19-G-0310, EDF Post-Hearing Brief at p4 (Apr. 6, 2020).
[4] National Grid Downstate, Order Approving JP with Modifications at 71 (Aug. 12, 2021).
[5] Liberty Utilities JP, Case 21-G-0577 (Mar. 31, 2023). See also Con Ed, NYSEG-RG&E, KEDNY-KEDLI, National Fuel.
[6] *Central Hudson*, Case 24-G-0462, Order Adopting Terms of JP at 99 (Aug. 14, 2025).

Example of more detailed GHG emissions assessment of a utility rate case filing, for a gas and electric utility:



Comparison of Scoping Plan, Reference, and Rate Case for Con Edison's Gas System, select years								
	2020	**2023**	**2026**	**2027**	**2028**	**2030**	**2043**	**2050**
Scoping Plan Scenario 3 Reductions in Gas System Emissions (from 2020)		-2%	-10%	-17%	-24%	-33%	-76%	-87%
Emissions ***(million metric tons CO_2e)***								
Scoping Plan Trajectory, applied to Con Edison estimated emissions (see Methodology)	20.8	20.3	18.6	17.2	15.7	14.0	9.3	2.8
ILRP Reference Case		19.8	19.2	18.8	18.6		15.3	
Rate Case			19.5	19.1	18.9			
Gap of Rate Case to Scoping Plan			+0.9	+1.9	+3.2			
Emission Factors ***(metric tons CO_2e/mmBtu)***								
Scoping Plan Trajectory (uses Fossil Gas Emission Factors, Gas System Long Term Plan)		.1039	.1034	.1033	.1031	.1028		
ILRP Reference Case	.1041	.1041	.1026	.1024	.1023		.1003	
Rate Case Source: Exh __ (CETP-2-UPD), Sched 2 p2, "Gas Emissions Rate"			.1034	.1033	.1031			
Natural Gas Demand - Volumes ***(TBtu)***								
Reference Case		190.0	187.5	183.7	181.7		152.5	
Rate Case			188.8	185.5	185.0			
Prior Rate Case	200.2							



Comparison of Scoping Plan, Reference, and Rate Case for Con Edison's Electric System, select years								
	2020	**2023**	**2026**	**2027**	**2028**	**2030**	**2043**	**2050**
Scoping Plan Scenario 3 Reductions Electric Emissions (from 2020)		-21%	-42%	-49%	-56%	-70%	-100%	-100%
Emissions ***(million mt CO_2e)***								
Scoping Plan Trajectory (estimated applied to Con Edison)	16.5	13.0	9.6	8.4	7.3	5.0	0	0
ILRP Reference Case		15.6	14.0	12.3	12.2	12.2	0	
Rate Case (using Rate Case Emission Factors)			8.2	7.6	6.9			
Gap of Rate Case to Scoping Plan (Rate Case Emission Factors)			-1.4	-1.2	-1.2			
Rate Case (using Reference Case Emission Factors)			12.9	13.0	13.0			
Gap of Rate Case to Scoping Plan (Reference Case Emission Factors)			+3.0	+4.6	+5.7			
Emission Factors ***($kg\ CO_2e/kWh$)***								
Reference Case EFs ***(as updated)***		0.2778	0.2212	0.2212	0.2212	0.1844		
Rate Case EFs			0.1414	0.129	0.117			
Demand ***(TWh)***								
Reference Case Electric Delivery		51.4	50.6	50.5	50.8	52.5	72.4	
Reference Case Electric Sendout		56.2	55.2	55.3	55.8	57.4	79.1	
Rate Case Electric Delivery			53.1	58.1	58.9			
Rate Case Sendout, estimated			63.4	64.4	64.6			
Prior Rate Case Delivery	54.3							
Prior Rate Case Sendout, estimated	59.3							