FOSSIL FREE TOMPKINS
Sept 30, 2025

I'm Irene Weiser, coordinator of Fossil Free Tompkins. I've been active in PSC proceedings since 2012 including 3 NYSEG rate cases. Like my colleagues, I've experienced deep frustrations with the ratemaking process, and I appreciate the opportunity to speak today.

The purpose of my testimony is to raise concerns about the way confidential settlement negotiations have come to dominate our rate cases. Settlements are supposed to be efficient. But in practice, they undermine transparency, accountability, and fairness and can result in higher costs to ratepayers. Further, confidentiality makes the process vulnerable to procedural unfairness, bias, and coercion.

Because of confidentiality, I cannot disclose, (hypothetically speaking)

- if meetings were scheduled last-minute, or if utilities controlled the agenda, or
- if lesser resourced stakeholders were not allowed time to discuss their concerns or faced disparaging remarks.
- Nor can I say if utilities inflated their initial revenue requests to create the illusion of compromise or
- if they didn't provide cost justifications for infrastructure projects costing hundreds of millions of dollars.
- I also can't mention if Return on Equity - the source of utility profits - was decided like buying a used car.
- And I can't say if Department staff made concessions despite the unanimous objections from stakeholders, or
- if policy matters, like protecting vulnerable customers or upholding the State's Climate Law, were inexplicably subject to negotiation.
- I also can't say if parties signed the settlement agreement out of exhaustion or coercion, or if some signed without ever having ever attended a single settlement meeting.

So while I can't say whether these hypothetical scenarios took place, I can say that the confidential settlement process makes such abuses possible - and invisible.

The problem is compounded once a settlement agreement is published. DPS Staff and the Administrative Law Judges regard the existence of an agreement as - by definition - being in the public interest. During evidentiary hearings, stakeholders are admonished that they cannot question individual elements of the JP because it's considered a delicately balanced interdependent whole. The message is clear: the hearing is performative. The agreement stands.

This lack of transparency means that neither the public - nor even the Commissioners - can know if cost estimates were justified, if concessions were fair, or if lower-cost alternatives were left on the table. The outcome is predictable: higher rates with less accountability.

Obviously, things must change. First, I recommend some basic changes that can be done quickly that can help make any ratemaking process more fair. After that, I identify some longer term approaches to changing the overall process that should be thoughtfully considered.

QUICK, NECESSARY CHANGES:

- Restore and fully staff an Office for Utility Public Advocacy.
- Provide intervenor funding to level the playing field.
- Require DEC participation in rate cases.
- Require that Return on Equity (ROE) be addressed formulaically or in evidentiary hearings, never negotiated.
- Appoint independent mediators to run settlement talks.
- Review and update PSC settlement guidelines.
- Hire more DPS staff and increase their training opportunities
- Require attendance of three Commissioners at evidentiary hearings.

CHANGES TO THE RATEMAKING PROCESS

I urge caution in determining how to fix the ratemaking process to deliver defensible, affordable outcomes. Some options include:

- Keep settlement negotiations but end confidentiality (with exceptions for trade secrets) and subject agreements to more meaningful evidentiary hearings.
- Eliminate settlement negotiations, and instead rely on evidentiary hearings with either a single year, or multiyear rate horizon.
- Return to using prudence reviews (predominantly used prior to the 1980s), where utilities invest their own capital and only get rate increases after proving the expenditures were least-cost, necessary and effective. This model puts utility, not ratepayer capital at risk up front.
- Develop a hybrid model where routine increases (salaries, maintenance, small infrastructure projects) are subject to evidentiary hearings with a multi-year rate plan, while larger, more costly infrastructure projects are subject to annual prudence reviews.
- Evaluate integration with other ratemaking models such as Performance Based Ratemaking.

My final recommendation - much as I hate to say it…is to proceed slowly. Ratemaking is extraordinarily complex, involving many billions of dollars and it is deeply intertwined with our state's economic, social, and climate future. I recommend convening a blue-ribbon panel - as was done after Superstorm Sandy - to evaluate not only best ratemaking practices but also how to change regulatory culture from settlement to more fully protecting the pubic interest in a rapidly changing energy ecosystem.

Thank you for your time. I welcome any further discussion.