

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: Michelle Phillips, 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.

(20-E-0495SP1)

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

Transfer of Natural Gas Pipeline Facilities and Ownership Interests in Those Facilities, and an Applicable Regulatory Regime

I.D. No. PSC-44-20-00010-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 petition filed by EmKey Gathering, LLC, Chautauqua Green Energy, LLC (CGE), and CGE Ventures, LLC to transfer interests in certain natural gas pipeline facilities, and for lightened regulatory treatment of CGE.

Statutory authority: Public Service Law, sections 2(10), (11), 5(1), (2), 5-b, 64, 65, 66, 67, 68, 69, 69-a, 70, 71, 72 and 72-a

Subject: Transfer of natural gas pipeline facilities and ownership interests in those facilities, and an applicable regulatory regime.

Purpose: To ensure appropriate regulatory review, oversight, and action concerning the proposed transfers and the facility owners.

Substance of proposed rule: The Public Service Commission (Commission) is considering a joint petition filed by EmKey Gathering, LLC (EmKey), Chautauqua Green Energy, LLC (CGE), and CGE Ventures, LLC (CGEV) (collectively, the Petitioners) to transfer certain natural gas pipeline facilities pursuant to Section 70 of the Public Service Law (PSL). According to the joint petition, EmKey and CGE have entered into an agreement for the sale of a natural gas pipeline and related facilities from EmKey to CGE.

The joint petition describes the pipeline and related facilities as the Little Valley Gathering System, which is 74 miles long and begins at the National Fuel Gas Supply Interconnect located at the Little Valley Compressor Station in the Town of Little Valley, Cattaraugus County, New York, and runs through the Towns of Randolph, Napoli, Leon, Conewango, and Dayton in Cattaraugus County and the Towns of Poland, Carroll, Ellington, Charlotte, Cherry Creek, and Gerry in Chautauqua County, New York before ending in the Town of Ellery, Chautauqua County. It is comprised of 12-inch, 10-inch, 8-inch, 6-inch, and 4-inch steel pipeline, associated equipment and appurtenances, and the properties and rights-of-way in which the pipeline and equipment are located.

The Petitioners request that the Commission approve the transfer from EmKey to CGE pursuant to PSL § 70. The Petitioners indicate that, irrespective of the transfer, CGE plans to construct a spur from the Chautauqua County landfill to a point in the Town of Ellery to interconnect the Little Valley Gathering System with a renewable natural gas facility. CGE would also develop, construct, and operate the renewable gas facility by converting landfill gas captured at the Chautauqua County Landfill into renewable natural gas, which would be injected into the Little Valley Gathering System.

Following the consummation of this proposed transaction, the owners of CGE, EmKey, and VE Partners LLC, would assign their interests in CGE to CGEV, which is a newly-formed company. The Petitioners request that the Commission issue a declaratory ruling finding that these transfers of interests to CGEV do not require approval, or, in the alternative, that the Commission grant approval of such transfers under PSL § 70. EmKey would continue to operate and maintain the Little Valley Gathering System pursuant to an operating agreement between CGE and EmKey. The joint petition also requests that the Commission approve a lightened regulatory regime for CGE.

The full text of the joint petition and the full record of the proceeding

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

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Data, views or arguments may be submitted to: Michelle L. Phillips, 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

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(20-G-0486SP1)

Workers' Compensation Board

**EMERGENCY
RULE MAKING**

Allowing Telemedicine in Some Circumstances, Supersede Previous Emergency Adoption

I.D. No. WCB-44-20-00001-E

Filing No. 672

Filing Date: 2020-10-19

Effective Date: 2020-10-19

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

Action taken: Amendment of sections 325-1.8, 329-1.3, 329-4.2, 333.2 and 348.2 of Title 12 NYCRR.

Statutory authority: Workers' Compensation Law, sections 117 and 142

Finding of necessity for emergency rule: Preservation of public health, public safety and general welfare.

Specific reasons underlying the finding of necessity: This amendment is adopted as an emergency measure because the Board wants to avoid health and safety risks that can be avoided through social distancing due to the outbreak of COVID-19, by allowing telemedicine in some circumstances, and to supersede the previous emergency adoption addressing this topic.

Subject: Allowing telemedicine in some circumstances, supersede previous emergency adoption.

Purpose: To allow telemedicine in some circumstances for social distancing purposes due to outbreak of COVID-19.

Text of emergency rule: Section 325-1.8 of Title 12 NYCRR is hereby amended to read as follows:

325-1.8 Emergency medical aid and telemedicine.

(a) In the event of a serious accident requiring immediate emergency medical aid, an ambulance or any physician may be called to give first aid treatment.

(b) *Telemedicine, using two-way audio and visual electronic communication, or treatment via telephone, may be used by authorized providers where medically appropriate for social distancing purposes due to the outbreak of COVID-19 during the state of emergency in accordance with the Department of Health COVID-19 Medicaid Guidance and Guidance issued by the Centers for Medicare and Medicaid Services. The authorized provider shall indicate on their report that such assessment was done using telemedicine by use of modifier 95 and indicating a place of service as 11, or telephonically by indicating place of service as 02. The provider shall also confirm the employee's identity as well as provide basic information about the services the employee is receiving by telephone or telemedicine.*

New subdivisions (c) and (d) of section 329-1.3 of Title 12 NYCRR is hereby added to read as follows:

(c) *When medically appropriate, authorized providers who utilize the Official New York State Workers' Compensation Fee Schedule may, when*

telemedicine is used in accordance with section 325-1.8 of this Title and any applicable Medical Treatment Guideline, bill using the applicable Evaluation and Management codes (99212-99214) using modifier 95 and indicating 11 as the place of service. Modifiers 1B and 1D are available when services are rendered by telemedicine using two-way audio and visual communication. When services are rendered by telephone only in accordance with section 325-1.8 of this Title, the authorized provider shall indicate 02 as the place of service. Modifiers 1B and 1D are not available when services are rendered by telephone with no visual component.

(d) Providers with the following rating codes may bill the following psychotherapy codes in conjunction with Evaluation and Management codes:

(i) New patient Evaluation and Management: 99201-99204;

(ii) Psychotherapy combination codes and crisis codes: 90832-90834, 90836-90840, 90853;

A new subdivision (d) of section 329-4.2 of Title 12 NYCRR is hereby added to read as follows:

(d) When medically appropriate, authorized physical therapists and occupational therapists shall use Common Procedural Technology (CPT) code 99212 using modifier 95 and indicating 11 as the place of service when treatment is rendered by telemedicine using two-way audio and visual communication, and indicating 02 as the place of service when treatment is rendered by telephone only. Treatment in accordance with section 325-1.8 of this Title and using these codes shall be limited to one unit per patient per day, up to two treatments per week during the thirty days following injury, and up to one treatment per week thereafter.

New subdivisions (c) and (d) of section 333.2 of Title 12 NYCRR is hereby added to read as follows:

(c) When medically appropriate, authorized providers, including psychologists and licensed clinical social workers, shall use a Common Procedural Technology (CPT) therapy code (90832, 90834, or 90837) for services delivered by telemedicine in accordance with section 325-1.8 of this Title using modifier 95 and indicating 11 as the place of service for therapy by telemedicine using two-way audio and visual communication. Modifiers 1B and 1D are available when services are rendered by telemedicine using two-way audio and visual communication. When services are rendered by telephone only in accordance with section 325-1.8 of this Title, the authorized provider shall indicate 02 as the place of service. Modifiers 1B and 1D are not available when services are rendered by telephone with no visual component. Group therapy: 90853. Group therapy is limited to a maximum of 20 participants and does not require that every participant in the group therapy session be a workers' compensation claimant.

A new subdivision (c) of section 348.2 of Title 12 NYCRR is hereby amended to read as follows:

(c) When medically appropriate, authorized chiropractors shall use Common Procedural Technology (CPT) code 99212 using modifier 95 and indicating 11 as the place of service when treatment is rendered by telemedicine using two-way audio and visual communication, and indicating 02 as the place of service when treatment is rendered by telephone only. Treatment in accordance with section 325-1.8 of this Title and using these codes shall be limited to one unit per patient per day, up to two treatments per week during the thirty days following injury, and up to one treatment per week thereafter.

This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires January 16, 2021.

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

Regulatory Impact Statement

1. Statutory authority: WCL § 117(1) authorizes the Chair of the Workers' Compensation Board (Board) to adopt reasonable rules consistent with, and supplemental to, the provisions of the WCL.

2. Legislative objectives: The emergency adoption allows telemedicine visits in some circumstances due to the outbreak of COVID-19.

3. Needs and benefits: For social distancing purposes to avoid furthering the outbreak of COVID-19, the emergency adoption allows telemedicine visits in some circumstances to avoid in person visits to authorized providers when medically appropriate, consistent with guidance issued by the Center for Medicaid and Medicare Services. This regulation will permit physicians, nurse practitioners, physician assistants, psychologists, licensed clinical social workers, chiropractors, physical therapists and occupational therapists to treat using telehealth due to COVID-19.

4. Costs: The emergency adoption will have no impact on costs.

5. Local government mandates: The proposed amendments do 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 emergency adoption requires authorized providers to

indicate in their report that the services rendered were through telemedicine due to the outbreak of COVID-19.

7. Duplication: The emergency adoption does not duplicate other regulatory initiatives.

8. Alternatives: An alternative would be to not file an emergency adoption addressing telemedicine. However, this poses a health risk to both the authorized providers and the claimants being treated, and social distancing, where medically appropriate, is a better alternative due to the outbreak of COVID-19.

9. Federal standards: There are no applicable Federal Standards.

10. Compliance schedule: The emergency adoption takes effect immediately upon filing but does not require telemedicine – it offers it as a tool to assist with social distancing in some circumstances. Any provider rendering services using telemedicine must comply with the emergency adoption, including the reporting requirements.

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis is not required because the emergency adoption will not have any adverse economic impact or impose any new reporting, recordkeeping or other compliance requirements on small businesses or local governments. The emergency adoption provides for telemedicine visits in some circumstances due to the outbreak of COVID-19.

Rural Area Flexibility Analysis

A Rural Area Impact Statement is not required because the emergency adoption will not have any impact rural areas. The emergency adoption allows telemedicine visits in some circumstances due to the outbreak of COVID-19.

Job Impact Statement

A Job Impact Statement is not required because the emergency adoption will not have any impact on jobs or employment opportunities. The emergency adoption allows telemedicine visits in some circumstances due to the outbreak of COVID-19.

**HEARINGS SCHEDULED
FOR PROPOSED RULE MAKINGS**

Agency I.D. No.	Subject Matter	Location—Date—Time
Lake George Park Commission		
LGP-43-20-00005-P	Stream Corridor Protection Regulations for the Lake George Park	Fort William Henry, 48 Canada St., Lake George, NY—January 12, 2021, 4:00 p.m.
Long Island Power Authority		
LPA-37-20-00008-P	Authority’s Annual Budget, as Reflected in the Rates and Charges in the Tariff for Electric Service	Long Island Power Authority, 333 Earle Ovington Blvd., 4th Fl., Uniondale, NY—November 18, 2020, 2:00 p.m. H. Lee Dennison Bldg., 100 Veterans Memorial Hwy., Hauppauge, NY—November 19, 2020, 10:00 a.m.
LPA-37-20-00009-P	Consolidated Billing for Community Distributed Generation	Long Island Power Authority, 333 Earle Ovington Blvd., 4th Fl., Uniondale, NY—November 18, 2020, 2:00 p.m. H. Lee Dennison Bldg., 100 Veterans Memorial Hwy., Hauppauge, NY—November 19, 2020, 10:00 a.m.
LPA-37-20-00010-P	To Modify the RDM and DSA to Address the Unforeseen Impact of COVID-19	Long Island Power Authority, 333 Earle Ovington Blvd., 4th Fl., Uniondale, NY—November 18, 2020, 2:00 p.m. H. Lee Dennison Bldg., 100 Veterans Memorial Hwy., Hauppauge, NY—November 19, 2020, 10:00 a.m.
LPA-37-20-00011-P	New Optional TOU Rates as Proposed in PSEG Long Island’s 2018 Utility 2.0 Filing and Subsequent Filing Updates	Long Island Power Authority, 333 Earle Ovington Blvd., 4th Fl., Uniondale, NY—November 18, 2020, 2:00 p.m. H. Lee Dennison Bldg., 100 Veterans Memorial Hwy., Hauppauge, NY—November 19, 2020, 10:00 a.m.
LPA-37-20-00012-P	Authority’s Implementation of Public Service Law Section 66-p in the Tariff for Electric Service	Long Island Power Authority, 333 Earle Ovington Blvd., 4th Fl., Uniondale, NY—November 18, 2020, 2:00 p.m. H. Lee Dennison Bldg., 100 Veterans Memorial Hwy., Hauppauge, NY—November 19, 2020, 10:00 a.m.
LPA-37-20-00013-EP	Terms of Deferred Payment Agreements Available to LIPA’s Commercial Customers	Long Island Power Authority, 333 Earle Ovington Blvd., 4th Fl., Uniondale, NY—November 18, 2020, 2:00 p.m. H. Lee Dennison Bldg., 100 Veterans Memorial Hwy., Hauppauge, NY—November 19, 2020, 10:00 a.m.
Public Service Commission		
PSC-41-20-00011-P	Major Gas Rate Filing	Department of Public Service, 19th Fl., Board Rm., 3 Empire State Plaza, Albany, NY—December 15, 2020, 10:30 a.m. and continuing daily as needed (Evidentiary Hearing)* *On occasion, there are requests to reschedule or postpone hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 20-G-0101
PSC-42-20-00006-P	Proposed Major Rate Increase in National Grid’s Delivery Revenues of Approximately \$41.8 Million (or 9.8% in Total Revenues)	Department of Public Service, 19th Fl. Board Rm., 3 Empire State Plaza, Albany, NY—January 6, 2021, 10:30 a.m. and continuing daily as needed (Evidentiary Hearing)* *On occasion, the evidentiary hearing date may be rescheduled or postponed. In that