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3 **UNITED STATES OF AMERICA**  
4 **BEFORE THE**  
5 **FEDERAL REGULATORY COMMISSION**  
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8 **Honeoye Storage Corporation** ) **Docket No. CP00-\_\_-\_\_**  
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11 **PREPARED STATEMENT**  
12 **OF**  
13 **BRUCE M. McCONIHE**  
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18 **I. INTRODUCTION**

19 **Q. Please state your name and occupation.**

20 A. My name is Bruce M. McConihe (formerly Bruce M. Sloan). I am a Principal at  
21 PHB Hagler Bailly, Inc. (“PHB”). PHB is an economic and management  
22 consulting firm with domestic offices in Washington, D.C.; Cambridge,  
23 Massachusetts; Boulder, Colorado; Palo Alto and Los Angeles, California.  
24 During my consulting career, I have directed projects involving market power  
25 issues in the natural gas, electric utility and telecommunications industries. My  
26 professional background and experience are described in detail in Exhibit No. \_\_  
27 (BMM-1).

28 **Q. What is the purpose of your testimony?**

29 A. Honeoye Storage Corporation (“Honeoye”) has applied to the Commission to: 1)  
30 abandon service to Providence Gas Company; 2) increase the certificated capacity

1 and deliverability of the Honeoye storage field; 3) seek permission to provide firm  
2 and interruptible storage services on an open access basis under part 284 of the  
3 Commission’s regulations at market-based rates; and 4) seek permission to  
4 construct and operate certain facilities under Section 7 of the NGA. My  
5 testimony addresses the market power issues in connection with Honeoye’s  
6 request for authority to provide firm and interruptible storage services at market-  
7 based rates.

8 **Q. Please summarize your conclusions.**

9 A. Based on the results of my market power analysis, I conclude that Honeoye does  
10 not have market power in connection with the provision of storage services.  
11 Honeoye is a small market participant relative to available alternatives. Although  
12 the storage services market in New York and Pennsylvania are concentrated with  
13 a Hirfindahl-Hirshman Index (“HHI”) of 3,687 as measured by working gas  
14 capacity and a HHI of 4,272 as by measured peak day deliverability, I conclude  
15 that Honeoye both on a stand-alone basis and in conjunction with certain remotely  
16 affiliated facilities cannot exercise market power. Honeoye proposes to conduct  
17 an open season offering for the storage service capacity becoming available.  
18 Local distribution companies affiliated with Honeoye will not be eligible to  
19 participate in the open season. Honeoye must attract new customers to its storage  
20 facility by offering competitive prices. Potential customers at Honeoye have  
21 many options including the over 80 storage facilities located in the relevant  
22 geographic market. Honeoye cannot offer its services at prices above competitive  
23 levels because it will not be able to entice customers away from storage facilities

1 with lower cost-of-service rates. Therefore, I conclude that because alternative  
2 storage facility rates act as a ceiling to the storage services market, Honeoye  
3 cannot exercise market power. In addition, the evidence indicates that there are  
4 no significant barriers to entry. Thus, if rates for storage services were raised  
5 above competitive levels that new entry would not permit those rates to be  
6 sustainable.

7 **II. DESCRIPTION OF HONEOYE**

8 **Q. Please describe Honeoye.**

9 A. Honeoye is located in Ontario County, New York. It has a working gas capacity  
10 of 4,905.6 MMcf and peak day deliverability of 40.9 MMcf/day. KeySpan  
11 Corporation and its affiliates control over fifty (50) percent of the equity of  
12 Honeoye.<sup>1</sup> Other shareholders consist of non-corporate entities. Honeoye is  
13 interconnected with the facilities of Tennessee Gas Pipeline Company  
14 (“Tennessee”) in the town of Bristol, New York and with the facilities of New  
15 York State Electric and Gas Company (“NYSEG”) in the town of Richmond,  
16 New York. Currently, Honeoye provides Part 157 storage service to the six  
17 customers, including the Providence Gas Company (“Providence”).

18 **Q. Describe Honeoye’s requested authorizations.**

19 A. Providence notified Honeoye that it was terminating service effective March 31,  
20 2000. The Providence abandonment will release 613.2 MMcf of working gas

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<sup>1</sup> Dr. David A. T. Donahue was a 10 percent owner of Honeoye, as well as an 80 percent owner of Steuben Gas Storage Company (“Steuben”). Dr. Donahue has divested most of his interest in

1 capacity and 5.1 MMcf/day of peak day deliverability. Honeoye proposes to offer  
2 the capacity and deliverability made available as a result of the abandonment of  
3 service by Providence under Part 284 of the Commission” regulations. In  
4 addition, Honeoye is proposing to expand the capacity of the facility by  
5 increasing the maximum stabilized pressure of the field from 927 PSIA to 1100  
6 PSIA and by increasing the maximum allowable operating pipeline pressure from  
7 900 PSIA to 1,045 PSIA. These changes will increase the working gas capacity  
8 by 1,812 MMcf and peak day deliverability by 15 MMcf/day. Together, these  
9 changes will add 2,426 MMcf of working gas capacity and 20 MMcf/day of peak  
10 day deliverability to the storage services marketplace. Thus, following its  
11 expansion, the maximum storage capacity of the Honeoye facility will be 6,717  
12 MMcf and the maximum deliverability will be approximately 56 MMcf per day.

### 13 **REQUIREMENTS FOR MARKET-BASED RATE AUTHORITY**

14 **Q. Has the Commission provided further guidance regarding market-based**  
15 **rates?**

16 A. Yes. In 1996 the Commission issued its “Statement of Policy and Request for  
17 Comments – Alternatives to Traditional Cost-of-Service Ratemaking for Natural  
18 Gas Pipelines,” 74 FERC ¶ 61,076 (1996) (hereinafter “Policy Statement”). Also,  
19 the Commission has issued several orders regarding market-based rates for  
20 storage services. Among these cases, which I believe provide further guidance,  
21 are Ouchita Gas Storage Company, L.L.C. 76 FERC ¶ 61,139 (1996), Equitable

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Honeoye and retains less than a 1 percent share of Honeoye” outstanding stock. Dr. Donahue continues to retain his ownership in Steuben.

1        Storage Company, 75 FERC ¶ 61,081 (1996) and Egan Hub Partners, L.P. 77  
2        FERC ¶ 61,061 (1996). Together with orders in Avoca Natural Gas Storage  
3        Company, 68 FERC ¶ 61,045 (1995) (“Avoca”) and Steuben Gas Storage  
4        Company, 72 FERC ¶ 61,102 (1995), which both involved market-based rates for  
5        market area storage,<sup>2</sup> I believe that the Commission has established clear  
6        guidelines regarding the factors that an applicant must demonstrate to receive  
7        approval of market-based rates. As discussed herein, my review of the above  
8        pronouncements confirm that Honeoye will not be able to exercise market power  
9        over storage services.

10    **Q.    Is Honeoye affiliated with any other storage service provider in the**  
11    **Northeast?**

12    **A.**    My understanding is that while Honeoye and certain of its affiliates hold a 13  
13    percent limited partnership interest in Steuben. As a limited partner in Steuben,  
14    Honeoye does not have operational control over Steuben. Similarly, Steuben  
15    cannot exercise control over Honeoye. Under these circumstances, I have  
16    conducted my analysis first, considering Honeoye’s share of the market  
17    separately, and secondly, combining Honeoye and Steuben’s capacity. I place  
18    more emphasis on the analysis of Honeoye as a separate entity in the assessment  
19    of potential market power. In any event, the conclusions remain the same that  
20    Honeoye cannot exercise market power in the firm storage market by either  
21    analytic approach chosen.

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<sup>2</sup> See also NE Hub Partners, LP., 83 FERC ¶ 61,043 (1998), New York State Electric and Gas Corp., 81 FERC ¶ 61,020 (1997).

1 **Q. Please describe how you applied the Commission’s Policy Statement and**  
2 **orders in specific proceedings to Honeoye’s proposal.**

3 A. In order to assess the potential exercise of market power, the Policy Statement  
4 requires that the analysis must properly identify the relevant product and  
5 geographic market for the proposed service. In addition, the number and type of  
6 alternatives available to potential customers of the proposed service must be  
7 identified. The size of the market must be measured and market shares of  
8 participants in the market must be calculated to assess the likely presence of  
9 market power. Market shares are then used as screens to determine the level of  
10 concentration in the market by calculating the Herfindahl-Hirschman Index  
11 (“HHI”). As indicated in the Policy Statement, a small HHI indicates that sellers  
12 cannot exercise market power because customers have sufficiently diverse  
13 sources of supply in the relevant market and that no one firm or group of firms  
14 acting together could profitably raise market prices. The Commission has  
15 indicated that it will use 0.18 HHI (or 1,800 HHI) as an indication that closer  
16 scrutiny is warranted because the index indicates that the market is more  
17 concentrated and the applicant may have significant market power. In addition,  
18 the analysis requires an examination of the ease of entry of potential competitors.  
19 This is especially important because a firm will not be able to sustain a price  
20 increase of 10 percent or more over a two-year period if competitors can easily  
21 enter the market in reaction to price increases above competitive market levels.

22 **Q. Please discuss the Commission’s findings regarding market power for**  
23 **storage facilities located within the market area.**

1 A. Avoca was the first market area storage facility to receive permission from  
2 FERC to charge market-based rates. Avoca is located in New York and the  
3 geographic market was defined as New York and Pennsylvania. The Commission  
4 concluded that Avoca could not offer customers storage charges that are higher  
5 than the prevailing market price of storage. Second, the Commission concluded  
6 that other small entrants would prevent Avoca from exercising market power.  
7 Finally, the Commission concluded that entry into the storage market in  
8 Pennsylvania and New York is easy.

9 Steuben was the second market storage facility to receive permission from  
10 FERC to charge market-based rates. Like Avoca, Steuben is also located in New  
11 York and the geographic market was also defined as New York and Pennsylvania.  
12 The Commission concluded that the HHI for working gas capacity was 4,400 and  
13 the HHI peak day deliverability was 3,600. Although the market is highly  
14 concentrated, the Commission concluded that Steuben is too small (market shares  
15 of 1.66-3.50 percent<sup>3</sup>) to exercise market power. The Commission determined  
16 that the market has more than 28 times the capacity and deliverability of the  
17 Steuben storage facility. Therefore, the Commission concluded that Steuben  
18 (combined with Honeoye capacity) represents a very small part of the market and  
19 would not be in a position to control the market.

20 The Commission made similar findings in the NE Hub Partners L.P. and  
21 New York State Electric and Gas Corp. decisions.

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<sup>3</sup> These market shares for Steuben include Honeoye capacity.

1 **III. HONEOYE MARKET POWER ANALYSIS**

2 **Q. Have you used the analytic framework required by FERC and which is**  
3 **outlined above to determine whether Honeoye, under its market-based rate**  
4 **proposal, could exercise significant market power?**

5 A. Yes. I define the relevant market for Honeoye storage services, identify  
6 comparable alternatives to potential customers of Honeoye, present data on the  
7 size of market, market shares and HHI screens, present information on the ease of  
8 entry of potential competitors of Honeoye services and examine the likelihood  
9 that Honeoye will be able to raise prices above competitive levels. The analysis  
10 demonstrates that there are many alternatives available to potential customers of  
11 Honeoye's storage services in sufficient quantity so that customers could displace  
12 Honeoye's services should it attempt to raise prices above competitive levels.

13 **A. Market Definition**

14 **Q. Please define the relevant market.**

15 A. Honeoye proposes to charge market-based rates for firm and interruptible storage  
16 services. Storage services constitute the relevant product market for the Honeoye  
17 market power analysis.

18 The Egan decision<sup>4</sup> clarified the Commission's policy concerning  
19 geographic market definition and specified that only existing facilities or facilities  
20 currently under construction should be included in the market power analysis.

21 The Honeoye market analysis includes only existing storage facilities, with the



1 exception of phase two of the Steuben project. Honeoye's current customers are  
2 located in New York and New England. Storage facilities in Pennsylvania are  
3 also available to the existing customers of Honeoye. Consistent with the  
4 Commission policy regarding geographic market definition and consistent with  
5 the market definition found in Avoca and Steuben, I define the relevant  
6 geographic market to be New York, Pennsylvania and New England. Since there  
7 are no underground storage facilities in New England, as a practical matter, the  
8 analysis focuses on the New York and Pennsylvania markets.

9 **Q. Have you prepared a market power analysis for firm and interruptible**  
10 **storage services?**

11 A. Yes. I have prepared a market power analysis for the storage service products  
12 that Honeoye will offer potential customers. For the purposes of calculating  
13 market share and market concentration, I have included capacity and  
14 deliverability associated with the Steuben projects, both on a stand-alone and  
15 collective basis.

16 **Q. Have you examined other storage facilities which may be alternatives to**  
17 **potential customers at Honeoye?**

18 A. Yes. Exhibit No. \_\_\_\_ (BMM-3) presents a listing of relevant storage facilities  
19 currently available in Pennsylvania and New York. There are over 80 alternative  
20 storage facilities located in the relevant market. Working gas capacity of these  
21 facilities consists of 544,697 MMcf (excluding the Honeoye facility). On a stand-

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<sup>4</sup> Egan Hub Partners, L.P., 77 FERC ¶ 61,016 (1996).

1 alone basis, Honeoye accounts for only 1.2 percent of the total capacity. As  
2 shown on Exhibit No. \_\_\_ (BMM-3a), Honeoye and Steuben together account for  
3 only 2.3 percent of the total capacity. The working gas capacity for storage  
4 facilities in New York and Pennsylvania represents over 80 times the capacity of  
5 the Honeoye facility. Total peak day deliverability in New York and  
6 Pennsylvania for the numerous alternative storage facilities is 9,320 MMcf per  
7 day (excluding Honeoye), as shown on Exhibit No. \_\_\_ (BMM-4). Standing  
8 alone, Honeoye accounts for less than one percent of peak day deliverability of  
9 storage facilities located in the relevant market. As shown on Exhibit No. \_\_\_  
10 (BMM-4a), Honeoye and Steuben together account for only 1.2 percent of peak  
11 day deliverability of storage facilities located in the relevant market. The HHI  
12 based on peak day deliverability of the storage facilities in New York and  
13 Pennsylvania is 4,272. Alternatives at other storage facilities in the relevant  
14 market based on peak day deliverability represent over 160 times the  
15 deliverability of Honeoye alone and over 80 times the deliverability of Honeoye  
16 and Steuben.

17 **Q. Do these high HHIs indicate that Honeoye has market power in connection**  
18 **with storage services?**

19 A. No. The Policy Statement indicates that it will use HHIs as initial screens to  
20 determine whether closer scrutiny is warranted because the Commission has  
21 determined that the index indicates that the market is more concentrated and the  
22 applicant may have significant market power. The Commission regards an HHI  
23 of 1800 as indicative of a concentrated market. In both Avoca and Steuben, the

1 Commission found the geographic market for storage in New York and  
2 Pennsylvania to be concentrated with HHIs ranging from 3,600 to 4,401  
3 (Steuben). Other factors considered by the Commission in light of such market  
4 concentration include whether the applicant is a new entrant in the highly  
5 concentrated marketplace, the relevant market share of the applicant and the ease  
6 of entry of other potential storage suppliers.

7 The evidentiary facts in connection with Honeoye's application are very  
8 similar to the circumstances in Avoca and Steuben. Honeoye is like a new entrant  
9 in the New York and Pennsylvania storage services market. It will control only  
10 1.2 percent of the current storage capacity available in the market and 0.6 percent  
11 of the peak day deliverability in the relevant market. Therefore, I conclude that  
12 Honeoye is too small to exercise market power.

13 Storage facility ownership in New York and Pennsylvania is dominated by  
14 CNG Transmission Corporation with 56 percent of the working gas capacity.  
15 National Fuel Gas Supply Corporation owns 22 percent of the working gas  
16 capacity in the relevant market. These two providers significantly dominate the  
17 storage market in New York and Pennsylvania, thereby creating a very  
18 concentrated market. Newly offered capacity in this market of the magnitude of  
19 Honeoye would be too small to exercise market power.

20 As a new entrant, Honeoye must attract customers to its storage facility.  
21 For this reason, it cannot charge more than the market price determined by over  
22 80 alternative storage facilities, most of which have rates subject to the

1 Commission's cost-based rate regulation.<sup>5</sup> In order to attract customers, there is  
2 incentive for Honeoye to price its storage services at rates comparable or below  
3 alternative storage facilities.

4 **Q. Are there any other factors that the Policy Statement discusses that should be**  
5 **considered in a market power analysis?**

6 A. Yes, the Policy Statement states that ease of entry is another competitive factor  
7 that demonstrates that an applicant lacks market power.

8 **Q. Please describe your conclusions concerning ease of entry as it relates to**  
9 **storage facilities in the relevant market.**

10 A. Currently, there are seven storage projects being planned in New York and  
11 Pennsylvania. As shown on Exhibit No. \_\_\_\_ (BMM-5) these projects will add  
12 working gas capacity ranging from 41,440 to 43,100 MMcf and peak day  
13 deliverability of 2,320 MMcf/day to the marketplace. The proliferation of such  
14 projects coupled with the fact that Commission policy generally favors the  
15 development of new storage facilities where such facilities do not adversely affect  
16 existing and potential customers or competitors supports a conclusion that there is  
17 ease of entry in Honeoye market.

18 **IV. CONCLUSIONS**

19 **Q. What conclusions do you reach concerning the market power potential of the**  
20 **Honeoye storage facility?**

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<sup>5</sup> Only the Avoca , Steuben, NYSEG and NE Hub Partners facilities have market-based rates in the

1 A. I conclude that Honeoye does not possess market power in connection with  
2 storage services. Honeoye is located in a market area where numerous storage  
3 service alternatives exist for existing and potential customers at Honeoye.  
4 Although the storage service market is highly concentrated in the relevant market  
5 due to the high market shares of CNG Transmission and National Fuel Gas,  
6 Honeoye is a small entrant. The Honeoye facility needs to attract customers and  
7 therefore, Honeoye will price its services accordingly to compete with the over 80  
8 alternative storage facilities availability to customers in the relevant market.  
9 Honeoye is too small to exercise market power.

10 **Q. Is there any other evidence that Honeoye will not be able to exercise market**  
11 **power over storage rates?**

12 A. Yes, as I noted previously, Honeoye is connected only with the Tennessee and  
13 NYSEG. Honeoye must transport gas on one of these systems in order to reach  
14 end-use markets. At the same time, each of these entities offers its own storage  
15 service. Thus, it is unlikely that Honeoye will be able to extract prices for its  
16 services that substantially exceed those charged by Tennessee and NYSEG.

17 Finally, the Commission has approved market-based rates for the Avoca  
18 and Steuben storage facilities located in the same highly concentrated market area  
19 of Pennsylvania and New York. Approval to the implement market-based rates  
20 was granted in Avoca and Steuben because the Applicants were entrants into an  
21 already highly concentrated market area; the new facilities represent a small  
22 market share of the market; rate regulated storage services provided by others as

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relevant geographic market and Avoca and NE Hub Partners are not yet operational.

1 alternatives to customers would prevent these new entrants from raising prices  
2 above competitive levels; and entry into storage services was found to be  
3 relatively easy. The evidentiary facts concerning Honeoye are similar to Avoca  
4 and Steuben. Therefore, I conclude that the Commission should grant market-  
5 based rate authority for storage service to Honeoye because it does not possess  
6 any market power over storage services in the relevant market.

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7 **Honeoye Storage Corporation** ) **Docket No. CP00-\_\_\_-\_\_\_**  
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11 **PREPARED STATEMENT**  
12 **OF**  
13 **BRUCE M. McCONIHE**

14  
15 **City of Washington** )  
16 **District of Columbia** ) **ss:**  
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19 I, Bruce M. McConihe, being duly sworn, depose and say that the contents of the  
20 foregoing Prepared Statement on behalf of Honeoye Storage Corporation are true,  
21 correct, accurate and complete to the best of my knowledge, information, and belief.  
22

23  
24 \_\_\_\_\_  
25 Bruce M. McConihe

26  
27 Subscribed and sworn to before me this \_\_\_\_\_ day of February, 2000.

28  
29 My Commission expires:  
30

31 \_\_\_\_\_  
32 Notary Public  
33  
34  
35  
36