Written Public Comments Submitted to the Department of Finance

Amendment of Rules Relating to Utility Company Properties.

If you would like to review the original submission of any comment, including attachments, please email dofrules@finance.nyc.gov

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1. **Cyavash N. Ahmadi - Eversheds Sutherland (US) LLP on behalf of CSX Transportation, Inc. – 4/10/2026 – Email**

On behalf of CSX Transportation, Inc. ("CSX"), we respectfully submit this comment in opposition to the proposed amendments to Title 19 of the Rules of the City of New York relating to Real Estate of Utility Company ("REUC") properties, published by the New York City Department of Finance ("DOF") on or about March 3, 2026.

CSX is a Virginia corporation providing rail-based freight transportation services, including traditional rail service, intermodal container and trailer transport, and related transportation services across a network of approximately 20,000 route miles serving 26 states east of the Mississippi River, the District of Columbia, and the Canadian provinces of Ontario and Quebec. CSX owns certain real property within New York City that has been designated as REUC property by DOF and is therefore directly affected by the proposed rule amendments.

CSX has a significant interest in this rulemaking proceeding. The proposed amendments would impose new reporting requirements on railroad property owners that are operationally impracticable and inconsistent with federal regulatory requirements governing railroad accounting. As detailed below, CSX urges DOF to withdraw or substantially modify the proposed amendments, particularly Section 4 of the proposed rule, which would require railroad owners to report "the address or other information sufficient to identify the location of any property" in a manner that Class I railroads cannot practicably satisfy.

CSX's Railroad Properties in New York City

CSX owns certain parcels of real estate within the City that DOF has designated as REUC property. These properties consist primarily of land improved with railroad tracks used in the conduct of CSX's railroad transportation business. CSX's properties are not held for the purpose of securing income from the properties themselves, but rather in connection with CSX's transportation operations.

The Proposed Rule Improperly Expands the Meaning of "Income-Producing Property"

Railroad properties are not "income-producing property" within the meaning of Administrative Code § 11-208.1 and therefore should not be subject to RPIE filing requirements at all. The Administrative Code defines "income-producing property" as "property owned for the purpose of securing an income from the property itself." Railroad properties, as defined in the proposed rule include "[s]urface, underground or elevated railroads, and railroad structures, substructures and superstructures, tracks and the metal thereon, branches, switches and other fixtures permitted or authorized to be made, laid or placed in, upon, above or under any public or private street or place." This property plainly does not meet the definition of "income-producing property." Railroad properties are not held for the purpose of generating rental income or other income from the properties themselves; rather, they are held in connection with railroad transportation business. The properties produce income only in combination with the business conducted upon them – a characteristic that New York courts have long recognized as distinguishing "specialty" property from true income-producing property.

New York case law distinguishes between property held for the purpose of securing income from the property itself – such as rental apartment buildings and commercial office space – and property that produces income only in combination with a business conducted upon such property. Railroad property falls squarely into the latter category. CSX's railroad properties consist of land improved with railroad tracks used in the conduct of CSX's railroad transportation business.

DOF's valuation practices confirm that railroad property is not income-producing property. DOF generally uses a cost-based approach – not the income capitalization approach – to value railroad property. This is consistent with the treatment of specialty property under New York law, where cost-based methods are the preferred approach for valuation. The REUC-RPIE worksheet itself acknowledges that "utility assessment relies heavily on cost-based reporting," which is inconsistent with the income capitalization approach that the RPIE regime was designed to support. The income information requested on the REUC-RPIE form relates to "Income From Business" rather than income from the property itself, further demonstrating that railroad property does not fit within the framework designed for income-producing properties.

Moreover, the proposed rule is incompatible with the legislative purpose motivating the RPIE filing requirement – to aid DOF in applying the income-capitalization method for purposes of determining the assessed value of real property located in the City – for two reasons. First, as noted above, the income capitalization method does not apply to specialty property. Second, railroad real property is subject to a ceiling assessment which caps the assessed value of railroad property that may be utilized by local assessors for real property tax purposes. These assessment ceilings are determined by the New York State Office of Real Property Tax Services, not DOF. Thus, unlike the income and expense information pertaining to actual income-producing properties, the information sought by DOF under the proposed rule has limited, if any, relevance to DOF's determination of railroad property assessed values.

The Proposed Location-Identification Requirement Imposes an Operationally Impracticable Burden on Railroads

For decades CSX has maintained its property accounting records in accordance with federal regulations promulgated by the Surface Transportation Board ("STB") – as detailed below, these regulations do not require CSX to maintain the location information required under the proposed rule. The proposed rule's requirement that railroad owners report "the address or other information sufficient to identify the location" of all railroad equipment would require CSX to fundamentally transform its operations and record-keeping practices to comply with a standard that no existing regulatory framework to which CSX is subject - federal or state - currently requires. CSX is not presently required to maintain the address or location of railroad equipment in its books and records. There is no operational or regulatory reason for CSX to track the address where each piece of equipment is situated at any particular time for purposes of property record-keeping.

The proposed rule does not account for this operational reality or the longstanding manner in which railroads have maintained their books and records. Complying with the proposed rule would require CSX to fundamentally transform its operations and develop entirely new systems for tracking and reporting the location of its assets – systems that do not currently exist. The administrative and technological burden of overhauling decades of established record-keeping practices and specifically identifying the location of each item of railroad real property currently owned in the City solely to satisfy the proposed rule would be extraordinary and disproportionate to any legitimate regulatory purpose.

The Proposed Rule Exposes Railroads to Penalties for Noncompliance with Standards They Cannot Practicably Meet

The proposed rule compounds the operational burden described above by subjecting railroads to significant penalties for failing to comply with an undefined standard. The rule requires railroads to report "the address *or other information* sufficient to identify the location" of the property, but provides no guidance on what level of specificity will satisfy compliance. Because CSX has never been required to maintain location information to the degree of specificity demanded by the proposed rule, and has not done so, the proposed rule would expose CSX to immediate penalties for failing to produce records that do not exist.

The combination of an impracticable location-reporting requirement and a severe penalty structure creates an untenable situation for railroads. This outcome is neither reasonable nor consistent with sound regulatory policy. DOF should ensure that any compliance standard is achievable before imposing penalties for noncompliance.

The Proposed Rule Conflicts with Federal Railroad Accounting Regulations

The Surface Transportation Board is the federal agency charged with economic regulation of the freight rail industry, including the establishment of accounting rules applicable to Class I railroads. The STB's Uniform System of Accounts, codified at 49 CFR Part 1201, prescribes detailed accounting requirements for railroad companies, including requirements for recording road and equipment property. Under these regulations, Class I carriers must maintain accounts covering the cost of property used in transportation operations, including accounts for "Road and equipment property" (account 731) and "Other current assets" (account 713).

Critically, the STB's Uniform System of Accounts does not require Class I railroads to track or report the geographic location of equipment with the degree of specificity that the proposed DOF rule would mandate. The STB accounting framework focuses on the cost, classification, and service life of railroad property rather than its specific geographic location. The STB regulations address when property is "placed in service" and its "retirement," but these concepts relate to the economic use of property over time, not its specific physical whereabouts at any given moment. Class I reporting requirements focus on financial and operational metrics, not location-tracking data.

The proposed DOF rule would impose location-reporting requirements that exceed what federal railroad accounting rules require, creating an inconsistency between the City's regulatory framework and the applicable federal standards. Class I railroads maintain accounting records in accordance with STB requirements, and the proposed rule would require them to develop and maintain entirely new tracking systems solely to satisfy a municipal reporting obligation. This conflict underscores the unreasonableness of the proposed requirement.

Conclusion

CSX appreciates the opportunity to comment on this proposed rulemaking and is committed to working constructively with DOF to address legitimate regulatory objectives in a manner that is practicable for railroad operations. Rather than expanding the burdens imposed on railroads through new location-reporting requirements, DOF should reconsider whether the RPIE framework is appropriately applied to railroad property in the first instance.

2. **Con Edison - 4/13/2026 – Email**

Con Edison is pleased to comment on the Department of Finance's (DOF) proposed rule changes governing real property income and expense reporting requirements for utility company properties.

For more than 200 years, Con Edison has delivered safe, reliable, and resilient energy to run New York City. Today, Con Edison plays a leading role in transitioning New York City to a clean energy future. Through our Clean Energy Commitment to meet City and State clean energy laws, we are investing in innovative energy infrastructure that remains both reliable and resilient, including infrastructure needed for electrification of heating and transportation, and a grid capable of delivering 100% clean energy to our customers.

DOF's PROPOSED AMENDMENTS TO THE RPIE RULES

One of the proposed amendments would require utility companies to submit a second annual Real Property Income and Expense (RPIE) filing each September. Con Edison respectfully questions the necessity of this requirement and requests further clarification regarding the Department's rationale for this additional filing.

Thank you for your consideration of our testimony on the DOF's proposed amendments to the rules governing RPIE filings.

If you have any questions, please reach out to Sheelah Feinberg, City Government Relations, at [email]