

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on August 3, 2006

COMMISSIONER PRESENT:

William M. Flynn, Chairman

CASE 06-E-0894 – Proceeding on Motion of the Commission to Investigate the Electric Power Outages In Consolidated Edison Company of New York, Inc.'s Long Island City Electric Network.

ORDER TEMPORARILY WAIVING TARIFF PROVISIONS

(Issued and Effective August 3, 2006)

SUMMARY

On July 17, 2006, Consolidated Edison Company of New York, Inc. (Con Edison) began experiencing problems with its electric distribution feeders concurrent with the electricity demands arising from high temperatures affecting New York City. These problems were most pronounced in the company's Long Island City electric network in Queens and resulted in the loss of numerous electric distribution feeders and extensive customer outages.¹ On July 26, 2006, the Public Service Commission commenced this proceeding to investigate the causes of and the company's response to these events, the adequacy of the company's infrastructure investments and maintenance practices, and the need for improvements to continue to ensure that Con Edison's customers receive safe and adequate service.²

In a letter dated August 1, 2006, Con Edison identified a number of provisions of its electric tariff and of the Commission's regulations that should be

¹ Similar problems occurred in portions of Jamaica, Queens and in Westchester County.

² Case 06-E-0894, Outages In Consolidated Edison Company of New York, Inc.'s Long Island City Electric Network, Order Instituting Proceeding and Directing Staff Investigation (issued July 26, 2006).

suspended temporarily because of these service outages. It requests Commission authority to temporarily waive the application of these provisions and regulations. In this Order, the Commission finds that granting certain of the waivers requested is in the public interest, is necessary to the preservation of the public welfare, and will contribute to public health and safety.

CON EDISON'S PETITION

In its August 1, 2006 letter, Con Edison explains that it is implementing a number of measures to provide financial assistance to the customers adversely impacted by the recent outages and to facilitate their resumption of normal activities. These measures include pro-rating and crediting all customers for the portion of the customer charge related to the period of loss of service, eliminating the requirement that residential customers provide proof of loss in order to qualify for the maximum reimbursement for food spoilage resulting from the outages, setting aside the \$10 million total cap on reimbursements for all customers, forgoing the assessment for all customers of late payment charges for bills rendered in August 2006, ceasing collection actions for all customers, including terminations and disconnections for bills rendered in August 2006, and suspending no-access charges for all customers in situations where company meter-readers and inspectors are unable to gain access to customer meters for purposes of reading the meters.

The company seeks Commission approval to temporarily suspend operation of the tariff leaves related to these matters. The company also seeks waivers of tariff leaves and regulations related to disconnection of service and backbilling.

DISCUSSION AND CONCLUSION

Many people were severely affected by the recent heat-related outages in Queens and Westchester County. We encourage Con Edison to take any and all reasonable actions necessary to ameliorate the impacts of the outages on its customers. The temporary cessation of the activities discussed in the company's filing is a positive step in helping these people resume normalcy in their lives.

The waiver of the requirement that residential customers provide proof of loss in order to qualify for the maximum reimbursement for food spoilage resulting from the outages and of the \$10 million limitation on total customer reimbursements will assist the company in expeditiously providing reimbursement for food losses, allow residential customers to receive funds to replace food lost as a result of the outages, and provide needed flexibility to manage and process customer claims for damages resulting from the outages. Pro-ration of the standard customer charge and customer credit for loss of service will avoid imposition of these charges during periods of lost service due to the outages. Temporary suspension of late payment charges for bills and no-access charges due to an inability to obtain meter access will avoid imposition of additional hardship on all customers who suffered financial loss during the outages.

While the company is seeking the waivers solely for the August billing cycle, which commences on or about August 2, 2006, additional flexibility and time for customers to recover from the impacts of the outages are warranted. Therefore, authorization for waiving or suspending operation of these tariff provisions set forth in the Appendix is granted for the August and September 2006 billing cycles. Additionally, preliminary information presented by Department Staff indicates that customers in the Long Island City electric network, portions of Jamaica, Queens, and Westchester County all suffered extended outages concurrent with the high temperatures experienced during the period July 15 through July 25, 2006. Since all of these customers are similarly situated, the authorization that is the subject of this Order applies to all of those customers.³

The tariff provisions and regulations related to backbilling and termination, disconnection, and suspension of service set forth the requirements the company must follow in undertaking such activities. In the case of the latter issues, the tariff provisions

³ The heat-related outages are distinguished from other outages that occurred during the same period that were related to thunderstorm activity in Con Edison's service territory, and the authorization is limited to the heat-related outages as storm-related outages generally are of the kind that do not warrant the extraordinary treatment discussed in this Order.

and regulations grant the company discretion on whether to terminate, discontinue, or suspend a customer's service. If such a course of action is taken, though, the provisions and regulations require the company to provide a number of customer protections including the provision of notice to the customer and an opportunity for the customer to rectify the problems.

In its filing, the company did not present any basis for waiving the requirements set forth in these provisions and regulations. Because the decision to terminate, discontinue, or suspend service is discretionary, we find that a waiver of the tariff provisions and regulations relating to these activities is not necessary. Moreover, because they contain important customer protections, they should not be suspended, even temporarily. Rather, we direct the company during the months of August and September to suspend operation of its termination, disconnection, and suspension procedures as they apply to its customers experiencing loss of service due to the outages. Similarly, the backbilling tariff provisions and regulations for which waiver is sought discuss the procedures and parameters for backbilling customers and include important customer protections. There is no reason to waive those provisions or regulations, even for a short duration.

This action is taken on an emergency basis under State Administrative Procedure Act (SAPA) §202(6). Immediate waiver of the tariff provisions set forth in the Appendix is required for reimbursement to customers for food losses due to the outages and suspension of fees associated with late payments and inability to obtain access for meter readings. These actions will provide important benefits for customers who have experienced financial and other hardships associated with electric service outages in Queens and Westchester County. Delaying these actions would be harmful to the public interest. Therefore, adoption of these measures under the emergency provisions of SAPA is necessary for the preservation of the public welfare and will contribute to the preservation of public health and safety. Accordingly, compliance with the advance notice and comment requirements of SAPA §202(1) would be contrary to the public

interest and immediate approval is necessary for the preservation of the general welfare under SAPA §202(6).

It is ordered:

1. The provisions of Consolidated Edison Company of New York, Inc.'s electric tariff set forth in the Appendix to this Order are waived or suspended, as appropriate, for the period of time set forth in the body of this Order. The authorization granted by this Order is limited to customers located in the Long Island City electric network, Jamaica, Queens, and Westchester County who lost service during all or part of the period July 17, 2006 through July 25, 2006 due to heat-related reasons.

2. This Order is adopted on an emergency basis under State Administrative Procedure Act §202(6).

3. This proceeding is continued.

(SIGNED)

Commissioner

APPENDIX

TARIFF LEAVES SUBJECT TO TEMPORARY WAIVER OR SUSPENSION

Procedural provisions:

First Revised Leaf No. 49, Original Leaf No. 50, Third Revised Leaf No. 51 (no-access fees); 16 NYCRR §§ 11.13(b), (c), and (d), and 13.8(c) (no-access charges)

Fifth revised Leaf No. 52 (late payment charges)

Sixth Revised Leaf No. 63 (proof of loss for reimbursement, cap on reimbursement for incident)

Customer charges:

P.S.C. No. 9 - Electricity

Twenty-fourth Revised Leaf No. 202 (SC 1, Rate I)
Thirteenth Revised Leaf No. 202A (SC 1, Rate II)

Twenty-sixth Revised Leaf No. 212 (SC 2, Rate I)
Thirteenth Revised Leaf No. 212A (SC 2, Rate II)

Twenty-third Revised Leaf No. 230 (SC 4, Rate I)
Twenty-third Revised Leaf No. 232 (SC 4, Rate II)
Twenty-third Revised Leaf No. 233 (SC 4, Rate III)

Twenty-third Revised Leaf No. 240 (SC 5, Rate I)
Thirteenth Revised Leaf No. 240-A-1 (SC 5, Rate II)

Twenty-fourth Revised Leaf 245 (SC 6)

Twenty-fifth Revised Leaf No. 251 (SC 7, Rate I)
Eleventh Revised Leaf No. 251-A (SC 7, Rate II)

Twenty-third Revised Leaf No. 262 (SC 8, Rate I)
Twenty-third Revised Leaf No. 264 (SC 8, Rate II)
Twenty-third Revised Leaf No. 265 (SC 8, Rate III)

Twenty-third Revised Leaf No. 272 (SC 9, Rate I)
Twenty-third Revised Leaf No. 274 (SC 9, Rate II)
Twenty-third Revised Leaf No. 275 (SC 9, Rate III)

Twenty-third Revised Leaf No. 311, Fourteenth Revised Leaf No. 311-A-2, and
Third Revised Leaf No. 312 (SC 12, Rate I)
Twenty-third Revised Leaf No. 313 (SC 12, Rate II)
Twenty-fourth Revised Leaf No. 314 and Twenty-fifth Revised Leaf No. 315 (SC
12, Rate III)
Twelfth Revised Leaf No. 89 (Rider D)

P.S.C. No. 2 – Retail Access, SC 14RA

Fifth Revised Leaf Nos. 146 and 147 (if the customer would be billed under SC 4)
Fifth Revised Leaf Nos. 148 and 149 (if the customer would be billed under SC 5)
Fifth Revised Leaf Nos. 150 and 151 (if the customer would be billed under SC 8)
Fifth Revised Leaf Nos. 152 and 153 (if the customer would be billed under SC 9)
Fifth Revised Leaf Nos. 154 and 155 (if the customer would be billed under SC
12)

PASNY No. 4

Eleventh Revised Leaf No. 3 (Rate I)
Sixth Revised Leaf No. 4 (Streetlighting and fire alarm or signal systems)
Tenth Revised Leaf No. 5 (Rate II)
Third Revised Leaf No. 6-C (Rate III)
Third Revised Leaf Nos. 6-E and 6-F (Rate IV)