

February 2, 2016

VIA EMAIL

Hon. Kathleen H. Burgess
Secretary to the Commission
New York State Public Service Commission
Empire State Plaza
Agency Building 3
Albany, NY 12223-1350

Re: Case 15-S-0523 – Petition of the City of New York and the Real Estate Board of New York for a Declaratory Ruling Regarding Service Classification No. 4 of Consolidated Edison Company of New York, Inc.'s Schedule for Steam Service – **Response of The Real Estate Board of New York and City of New York**

Dear Secretary Burgess:

The Real Estate Board of New York (“REBNY”) and the City of New York (“City”; and collectively with REBNY, the “Petitioners”) hereby submit this response to Consolidated Edison Company of New York, Inc.’s (“Con Edison”) January 29, 2016 letter, which was addressed to the parties in this proceeding.¹ As explained herein, the Petitioners disagree with Con Edison’s proposal to schedule a meeting in February, as this course of action will only serve to delay ultimate resolution of this matter. Instead, the Petitioners urge the Public Service Commission (“Commission”) to promptly issue a ruling, as Petitioners filed their original petition nearly five months ago and this matter is now ripe for decision.

On September 14, 2015, the Petitioners filed a petition for declaratory ruling asking the Commission to make crucial changes to Service Classification No. 4 of Con Edison’s Schedule for Steam Service (“SC 4”).² The Petition was noticed for comment in the NYS Register on October 21, 2015.

¹ Because the Secretary was copied on the Con Edison letter, the Petitioners are treating this instant reply as official correspondence in this proceeding and filing it with the Secretary.

² Case 15-S-0523, Petition of the City of New York and the Real Estate Board of New York for a Declaratory Ruling Regarding Service Classification No. 4 of Consolidated Edison Company of New York, Inc.'s Schedule for Steam Service, Petition for Declaratory Ruling (filed September 14, 2015) (“Petition”).

The Petition explained the punitive nature of SC 4 rates and how SC 4 discourages customers from pursuing distributed generation (“DG”) and combined heat and power facilities (“CHP”). The Petition also explained that, in meetings held with Con Edison in the months leading up to the Petition, representatives from Con Edison expressed a willingness to adopt some of the changes to SC 4 proposed in the Petition. Finally, the Petition explained that time was of the essence – changes to SC 4 should be made as soon as possible to provide relief to customers punished by the rates and to remove a critical barrier to increased DG and CHP penetration.³

On October 16, 2015, Con Edison filed a response asking that the Petition be dismissed in its entirety. On December 8, 2015, Con Edison filed a supplemental letter disavowing statements it made during the meetings referenced above, wherein Con Edison representatives indicated they would support some of Petitioners’ proposed changes to SC 4, and again urging that the Petition be dismissed.⁴ In between these filings, Con Edison responded to interrogatories from Department of Public Service Staff (“DPS Staff”), and on January 29, 2016, both Con Edison and REBNY submitted responses to additional DPS Staff interrogatories. The interrogatory responses support the relief requested in the Petition.

Now, Con Edison proposes to schedule a meeting in February, 2016 “to work to address changes to the SC4 steam rates consistent with our comments submitted in this proceeding.”⁵ However, Con Edison’s comments in this proceeding clearly advocate that the Petition should be dismissed. Therefore, further discussion of Con Edison’s comments would be pointless. Moreover, since the Petition was filed, (1) the Petition was noticed in the NYS Register; (2) DPS Staff has tested Petitioners’ proposals through discovery; and (3) Con Edison has had ample opportunity to offer a counter-proposal, but has failed to do so. The four specific changes requested in the Petition clearly are ripe for a decision.

Standby rates such as SC 4 are an acknowledged barrier to increased DG and CHP penetration, and the Petition offers four reasonable proposals to make SC 4 more palatable.⁶ In at least one recent proceeding, the Commission has taken action to reduce this barrier to the extent possible by extending the electric standby rate exemption to CHP facilities up to 15 MW.⁷ It is time for the Commission to take similar action here.

³ See Petition at 3-11.

⁴ Case 15-S-0523, *supra*, Response of Con Edison (filed December 8, 2015).

⁵ Case 15-S-0523, *supra*, Correspondence from Con Edison (dated January 29, 2016).

⁶ The changes requested in the Petition only partially correct the SC 4 tariff, and Con Edison’s decision not to file a steam rate case will defer further examination of the tariff. Thus, granting the relief sought in the Petition is critical.

⁷ See Case 14-E-0488, In the Matter of the Continuation of Standby Rate Exemptions, Order Denying Rehearing and Making Other Findings (issued November 25, 2015).

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Please contact me with any questions.

Respectfully submitted,

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ATC/glm

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