

STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

At a session of the Public Service
Commission held in the City of
Albany on October 18, 2012

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Maureen F. Harris
James L. Larocca
Gregg C. Sayre

CASE 11-E-0299 - Tariff filing by Consolidated Edison Company of New York, Inc. to Revise Service Classification No. 14-RA - Standby Service.

Petition for Rehearing of Consolidated Edison Company of New York, Inc. of the Commission's Order issued November 17, 2011 in this case.

Compliance filing by Consolidated Edison Company of New York, Inc. pursuant to Commission Order issued November 17, 2011 in this case to expand the applicability of standby service to multiple buildings and to its Power Authority of the State of New York customers.

ORDER APPROVING TARIFF AMENDMENTS WITH MODIFICATIONS AND
GRANTING PETITION FOR REHEARING

BACKGROUND

On March 19, 2012, Consolidated Edison Company of New York, Inc. (Con Edison or the Company) filed proposed amendments to its electric tariff schedule, P.S.C. No. 10 - Electricity (see Appendix), in compliance with our recent Order in Case

11-E-0299 (November 2011 Order) regarding standby service rates.¹ The filing expands the applicability of Service Classification (SC) 14-RA - Standby Service Special Provision E², which addresses the provision of this service to single buildings, to customers that have multiple buildings or campus-style settings. Special Provision E, now referred to as General Rule 20.2.1(B)(7), currently allows a customer with a single building to connect an on-site combined heat and power (CHP) generating facility, that meets certain criteria, to the Company's high tension distribution system and use the generator's output as an offset against its building usage. The filing also expands the provisions of General Rule 20.2.1(B)(7) to customers under the Company's Power Authority of the State of New York (PASNY) tariff schedule, P.S.C. No. 12 - Electricity as required by our November 2011 Order.

Con Edison complied with newspaper publication as required pursuant to Public Service Law §66(12)(b) and 16 NYCRR §720-8.1 for its March 19, 2012 filing. The Company has requested waiver of the requirement of newspaper publication of a subsequent filing on July 6, 2012 because the changes in that filing are being made to conform the tariff amendments to subsequent revisions made by the Company in Case 09-E-0428 and Case 12-E-0008, that became effective April 1, 2012.

¹ Case 11-E-0299, Tariff filing by Consolidated Edison Company of New York, Inc. to Revise Service Classification No. 14-RA - Standby Service, Order Approving Tariff Amendments with Modifications (issued November 17, 2011)(November 2011 Order).

² PSC No. 2 - Retail Access and PSC No. 9 - Electricity were recently merged into and superseded by PSC No. 10 - Electricity, effective February 20, 2012. Special Provision E of SC No. 14-RA of PSC No. 2 - Retail Access is now General Rule 20.2.1(B)(7), a sub-rule of General Rule 20 - Standby Service, under PSC No. 10 - Electricity.

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rulemaking was published in the State Register on April 11, 2012. The SAPA §202(1)(a) period for submitting comments in response to the notice expired on May 29, 2012. On May 14, 2012, the Secretary granted an extension until June 15, 2012 for Con Edison and all parties to submit comments in this case. Comments were received from the following parties: Green Campus Partners, LLC (Green Campus); Vornado Realty Trust; Pareto Energy LTD (Pareto); the Durst Organization (Durst); Related Companies; The Real Estate Board of New York (REBNY); SourceOne Inc; Northeast Clean Heat and Power Initiative (NECHPI); New York Energy Consumer Council, Inc (NYECC); and the City of New York (NYC). On June 18, 2012, the Company submitted a letter stating it planned to submit reply comments on or before July 6, 2012. As a result, on June 27, 2012, the Secretary granted the Company's request for leave to file reply comments. On July 6, 2012, Con Edison replied to the parties' comments.³

On December 19, 2011, Con Edison filed a petition for rehearing of our November 2011 Order seeking rehearing on the issue of the measurement of contract demand exceedance for customers taking Standby Service under General Rule 20.2.1(B)(7). Pursuant to SAPA §202(1), a Notice of Proposed Rulemaking was published in the State Register on January 11, 2012 and the comment period expired on February 27, 2012. Comments were received from Durst, REBNY, NYECC, and NYC.

As discussed below, we adopt the proposed tariff amendments as listed in the Appendix, with modifications. We

³ On July 20, 2012, NYC filed additional comments not authorized by the Secretary. We accept these additional comments because they contribute to the development of a complete record in this proceeding and are not prejudicial.

also provide certain relief, as described herein, in response to the Company's request for rehearing of our November 2011 Order.

THE NOVEMBER 2011 ORDER

Con Edison currently provides standby service to its full service customers under General Rule No. 20 - Standby Service. Under this rule, the delivery of power and energy for standby purposes is available: (1) to replace and/or supplement the power and energy ordinarily generated at a customer's premises by means of a private generating facility on the premises; or, (2) for station use by a customer that is a wholesale generator. General Rule 20.2.1(B)(7) permits low-tension customers to inter-connect an on-site CHP generating facility to the high-tension side of the Company's electric distribution service facilities under certain conditions. Customers benefit from connection of their on-site generation directly to the high-tension side of the Company's electric distribution facilities because it enables them to reduce the electrical infrastructure investment needed within their buildings.

Con Edison's tariff currently requires that all of the electricity supplied by the Company and by the customer's generator serve a single building. In our November 2011 Order, we directed the Company to file proposed tariff amendments to expand the applicability of General Rule 20.2.1(B)(7), to multiple buildings and campus-style settings. The November 2011 Order further directed that: (1) the Company file tariff amendments to allow customers to apply for service on a case-by-case basis providing details of the proposed multi-building or campus-style connection and proposed billing arrangement; (2) the Company respond to such customer's application within 60 days; and, (3) the Company and such customer be required to

agree on unique billing and netting arrangements on a case-by-case basis. The November 2011 Order further required that multi-building or campus-style connection arrangements be limited to private generating facilities having a total nameplate rating of no more than 20 megawatts (MW) and be technically and economically practicable. In addition, in order to allow distributed generation installations throughout Con Edison's service territory, we directed the Company to implement provisions similar to General Rule 20.2.1(B)(7) for customers who take standby service under the Company's PASNY tariff.

POSITIONS OF THE PARTIES

Campus-Style Tariff Amendments

To implement the requisite expansion of General Rule 20.2.1(B)(7) standby service to customers that have multiple buildings or campus style settings, Con Edison filed amendments to its electric tariff schedule, P.S.C. No. 10 - Electricity. Specifically the Company proposes to: (1) make minor formatting changes; (2) establish General Rule 20.2.1(B)(8) applicable to customers with private generating facilities sized greater than two MW and up to 20 MW that are connected to the Company's high tension distribution system and that use the output of the generating facility to credit two or more of the customer's accounts billed under standby service rates; and, (3) revise General Rule 6.5 - Meters with Communications Capabilities, to require that customers served under General Rule 20.2.1(B)(8) provide and maintain the meter communications service.

As proposed by Con Edison, under General Rule 20.2.1(B)(8), the As-Used Daily Demand Delivery Charges and the As-Used Daily Demand MAC charges would be based on the registered standby service meter demand kilowatts (kW) net of the allocated generator demand. Similarly, if the customer

purchases supply from the Company, any energy supply charges and adjustments will be based on the registered standby service meter energy kilowatt hours (kWh) net of the allocated generator energy. Both the allocated generator demand and the allocated generator energy will be determined using a ratio of the generating facility's demand and energy to the sum of the demands and energy measured on the meters of all accounts supplied by the generating facility's output, respectively. Finally, any kWh charges assessed under General Rule 26 (Adjustment Factor - MAC, the System Benefits Charge, and for the Renewable Portfolio Standard Charge) will be applied to the kWh registered on each standby service meter similar to what is currently done under General Rule 20.2.1(B)(7).

Comments on Tariff Amendments

All parties objected to the Company's proposed methodology for setting the contract demand for multiple buildings or campus style settings. Existing standby customers, including customers taking service under General Rule 20.2.1(B)(7), have two options for setting their contract demand. The customer may establish its own contract demand or the customer can allow Con Edison to establish the contract demand. Con Edison, in its tariff filing, proposes that it should have the authority to approve or modify a campus-style customer's proposed contract demand. As a consequence, no penalties would be imposed on a customer that exceeds its contract demand. All parties objected to these proposed changes, stating that they are inconsistent with General Rule 20.2.1(B)(7) and contrary to the November 2011 Order.

According to NYC, a customer that sets its own contract demand can implement load reduction plans that reliably reduce the maximum potential demand when the onsite generator is not operating. NYC asserts that when a customer sets its own

contract demand, it is accepting the risk of an exceedance penalty if its monthly maximum demand exceeds the customer-set contract demand. NYC claims that, because the November 2011 Order directs Con Edison to extend General Rule 20.2.1(B)(7) to campus style customers, the campus style tariff should mirror the existing contract demand provisions, including the exceedance penalties and measurement on a net registered demand basis.

Another objection stated by the parties concerns the proposed incremental charge of \$150.00 per month, per standby service account. Con Edison claims that an additional \$150.00 charge per standby account is necessary to cover incremental billing and administrative costs. NECHPI questioned whether the Company has justified the cost basis for the three hours of labor at \$50/hour. Some parties suggest that before this added cost is allowed, Con Edison should be required to demonstrate its necessity. NYC claims that this charge will impose unnecessary delivery charges if applied to every account on a campus. NYC asserts that this charge could add tens of thousands of dollars per year in unnecessary costs to DG projects. Therefore, NYC proposed to limit this charge to one standby service account per campus.

The parties also take issue with the Company's proposal that the standby service accounts and the account associated with the generating facility's export be established in a single customer's name. The parties argue that it is not consistent with Commission precedent to allow multiple customers to connect to a single DG facility. Noting that the Company expressed concern that, without the requirement, billing disputes among multiple customers could be expected, NYC proposes that written agreements be negotiated amongst the individual customers pursuing the campus-style interconnection

addressing cost responsibility. Further, NYC claims that Con Edison's concerns about billing disputes involving multiple customers can be addressed through contractual agreements among the customers and Con Edison. Similarly, Green Campus sought a clarification as to whether a third party could own or lease the generator and be eligible to take service under the proposed tariff.

According to Con Edison, under the definition of "premises", multiple buildings must have a common use, and be physically connected in order to qualify under the campus-style tariff. The parties consider this limitation unnecessary and overly restrictive. The parties complaining stated that the physical connection requirement could potentially prohibit a DG campus that while not currently connected, plans to install physical connections as part of the DG configuration. They also claim that it could prohibit customers that own multiple buildings, located proximate to each other but not physically connected, from establishing a campus configuration. NYC suggests that the customer should be able to demonstrate a common use if there is common ownership of buildings or parcels located proximate to each other, whether or not such buildings or parcels are physically interconnected or whether or not they are separated by public or private roads.

The Company's proposal states that a customer taking service under the campus-style tariff provision may not take service under its Service Classification No. 11 Buy-Back Service (SC 11) tariff. The parties object to the Company's proposal to prohibit a General Rule 20.2.1(B)(8) customer from utilizing the SC 11 tariff. The commenting parties maintain that there is no legitimate economic reason to prohibit utilization of the buy-back tariff, particularly if the campus-style customer absorbs any additional interconnection or metering costs and Con Edison

simply pays the customer market rates for the excess electricity. NYC believes that customers should be allowed to size their DG facilities so as to maximize the benefits from the plant.

The Company points out that the SC 11 prohibition currently exists under General Rule 20.2.1(B)(7) and that the design constraints inherent in General Rule 20.2.1(B)(7) apply with equal soundness to this expansion of General Rule 20.2.1(B)(7). Furthermore, the Company states that DG customers seeking to export continue to have the option of designing installations that use all of the electricity behind the meter.

In its tariff filing, Con Edison proposes that the campus-style tariff be limited to customers with generating facilities having a total nameplate rating of over two MW but no more than 20 MW. General Rule 20.2.1(B)(7) is currently limited to customers with generating facilities having a total nameplate rating between three MW and five MW. The parties recommend equating the size limitation in General Rule 20.2.1(B)(7) with the size limitation proposed in the campus-style tariff provision. Green Campus suggests that the lower limit of two MW be further lowered to one MW.

In addition to the comments above, Pareto addresses two points that were not raised by the other commenting parties. First, Pareto states that Con Edison does not justify part of the eligibility criterion, i.e., that "at least one of the Standby Service accounts must be connected to the Company's low tension distribution system." It requests that Con Edison either justify or remove this requirement. Pareto's second point is that customers who take service under the campus-style tariff provision should be entitled to implement an alternative approach that distributes electricity directly to each customer. This approach, according to Pareto, may include transferring

ownership of existing Con Edison electric distribution assets to the DG project.

NECHPI also included in its filing comments related to the precedent on "related facilities" in the Burrstone Ruling,⁴ where the Commission authorized more than one customer to connect to a single cogeneration facility. NECHPI supports making an export account eligible to participate in the structured New York Independent System Operator (NYISO) electric markets.

Green Campus notes that the requirement that the generator have a total nameplate rating of over two MW provides a disincentive for the smaller DG facilities. It claims that there are many projects between one and two MW which will benefit from eligibility under the proposed tariff changes in the form of avoided electrical distribution costs. Also, Green Campus raised a question as to whether a third party could own or lease the generator and be eligible to take service under the proposed tariff.

Reply Comments of Con Edison

In its reply comments, Con Edison addressed establishment of contract demand and explains that customers served under General Rule 20.2.1(B)(7) and General Rule 20.2.1(B)(8) are not reducing load on the local delivery facilities. As a result, it claims that the correct measurement of the contract demand for customers that use the Company's delivery system to meet their maximum potential demand should not be reduced by the output of the DG. The Company asserts its approach is consistent with the November 2011 Order requirement that the contract demand should reflect the customer's maximum potential demand. Con Edison asserts that its goal is to

⁴ Case 07-E-0802, Burrstone Energy Center LLC, Declaratory Ruling on Exemption from Regulation (issued August 28, 2007).

capture the costs associated with the appropriate measure of use of local facilities from the customer that uses them, thereby avoiding a shift of the associated costs to other customers. According to the Company, if a customer takes engineering measures to reduce demand on local facilities by reducing demand behind its consumption meters, it would recognize such an effort and would reduce the contract demand accordingly.

Con Edison also states that billing under this tariff must be manually prepared because the existing billing system cannot calculate these bills. It contends that the charges reflect the complexity of allocating the onsite generation output to each of the customer's multiple consumption accounts and correctly calculating the various other kWh charges for delivery (e.g., MAC adjustment, SBC, and RPS, and the associated validation of the bills). The Company also asserts that these are real costs not currently collected in rates and that these costs should be collected from the customer class responsible for them and not shifted to others. Regarding the claim made by NYC that contractual agreements among the customers and Con Edison would address its concern about being drawn into billing disputes, the Company protests that billing agreements will not insulate it from burdensome involvement in disputes among customers in an inherently complex billing situation. The Company also notes that the single customer requirement is consistent with the existing General Rule 20.2.1(B)(7). In addition, the Company states that an approach that permits a multiple-customer billing scheme would effectively extend, to such unrelated customers, access to many of the benefits of net metering, resulting in more favorable treatment of large commercial, conventional DG than state law accords renewable resources like solar and wind generation.

Addressing the definition of "premises," Con Edison states that the definition is consistent with that used for line extensions in General Rule 5.1 of PSC No.10 - Electricity (Leaf 33). In addition, Con Edison explains that multiple buildings located in campus style environments that do involve public street crossings, but have physical interconnections, such as tunnels below the street housing steam or chilled water lines, would be eligible to take service under the proposed tariff,

Finally, regarding the comments that the application of General Rule 20.2.1(B)(7) should be extended to larger generating facilities, the Company states that the methodology currently in General Rule 20.2.1(B)(7) for measuring contract demand is not cost-based and effectively results in a subsidy to General Rule 20.2.1(B)(7) customers. Therefore, Con Edison is unwilling to expand the applicability of the General Rule 20.2.1(B)(7) to larger DGs because doing so would increase the number of customers receiving such a subsidy.

Petition for Rehearing

In its petition for rehearing of the November 2011 Order, the Company claims that the Order appears to rely on the mistaken view that the Company's tariff allows the Company to reject a contract demand set by the General Rule 20.2.1(B)(7) customer that does not properly reflect the customer's maximum potential demand on the Company's facilities. It asserts that even assuming a customer-set contract demand is intended to equal the maximum potential demand on the Company's facilities, the Order fails to recognize that permitting a General Rule 20.2.1(B)(7) customer to net its generation output effectively permits the customer access to use of a greater amount of local facility infrastructure without reflecting the cost of such

facilities in the contract demand charge or through exceedance surcharges or in a contract demand ratchet. Con Edison further claims that netting should not be permitted unless the tariff is amended to prohibit a customer from setting its contract demand at less than the maximum potential demand on the Company's facilities.

Comments Regarding the Petition for Rehearing

Durst urges that we should deny the petition for rehearing because it repeats the same arguments that were considered and rejected in the November 2011 Order and does not specifically explain and support any alleged mistake of fact in the November 2011 Order. Durst states that if the Commission grants the petition for rehearing, which it should not, the Commission should clarify that any changes to the calculation of a contract demand exceedance are authorized on a prospective basis only. Durst also claims that its interpretation of the tariff provision is based on discussions with Con Edison representatives and subsequent e-mails that informed Durst that the contract demand would be based on the terms and conditions of SC 14-RA "as if the generator were connected to the customer's side of the billing meters." Durst also claims that Con Edison's Special Provision E is poorly-drafted.

NYECC claims that Con Edison's petition for rehearing should be denied as the Company has failed to make the proper showing required for a rehearing based upon an error of fact. In addition, NYECC asserts that the petition fails to separately identify and specifically explain and support any error of fact.

NYC, REBNY, and Montefiore urge that we reject the petition for rehearing because, they argue, it repeats arguments that the Commission has already considered and rejected, and it does not specifically explain and support any alleged mistake of fact. They further assert that the November 2011 Order properly

recognized the need to promote and expand the development of distributed generation in Con Edison's service territory, particularly larger-scale projects that will take service under General Rule 20.2.1(B)(7). Finally, they state that changing the tariff to prevent customers from netting its generation output against building usage would discourage customers from pursuing General Rule 20.2.1(B)(7) because it would expose them to unwarranted contract demand exceedance penalties.

DISCUSSION AND CONCLUSION

Campus-Style Tariff Amendments

A. Contract Demand Charge for Campus-Style Applications

In our November 2011 Order, we determined that the contract demand exceedance for eligibility under General Rule 20.2.1(B)(7) should be measured net of the on-site generation. We adopt Con Edison's contract demand proposal, based on its proposed tariff amendments, which would remove the penalty provisions associated with any exceedance for General Rule 20.2.1(B)(7) and General Rule 20.2.1(B)(8).⁵ Moreover, consistent with the provisions of the standby tariff, if a customer takes engineering measures to reduce demand on local facilities by reducing demand behind its consumption meters, the Company would recognize such an effort and would reduce the contract demand accordingly. The Company's contract demand proposal will also capture the costs associated with the use of local facilities from the actual customer that uses them and avoids the shifting of the associated costs to other customers justifies adoption. Given the unique nature of the on-site

⁵ The result reached here regarding General Rule 20.2.1(b)(8), is inconsistent to that described for General Rule 20.2.1(b)(7) in our November 2011 Order. As set forth below and for the reasons set forth in that discussion, we are modifying the November 2011 Order to address this inconsistency.

generation connection directly to the Company's high tension system, the Company's local facilities necessary to provide service to each building will need to be sized to meet the full contract demand. Therefore, we will require that the registered demand on these accounts be used to determine any exceedance. The removal of the penalty provision eliminates any risk of exceedance that customers previously faced.

B. Customer Charge of \$150 per Standby Account

Con Edison proposed an additional \$150 per month, per standby service account to cover what it claims are incremental billing and administrative costs. The Company claims that its proposed charge is based on the cost of three hours of incremental labor, exclusive of overheads.

Con Edison has not demonstrated that it will incur incremental costs to generate bills under the proposed campus-style tariff provision above and beyond those already incurred under General Rule 20.2.1(B)(7). Moreover, the proposed \$150 charge could impose significant additional delivery costs on standby customers, as NYC has demonstrated. Currently there is an additional customer charge of \$50.00 per billing period under the General Rule 20.2.1(B)(7). We find that this same charge should apply for the General Rule 20.2.1(B)(8) and the PASNY tariff and therefore it will be applied to each standby account being served.

C. Single Customer Name on All Standby Service Accounts

The Company proposes that the standby service accounts and the account associated with the onsite generating facility's export must all be established in a single customer's name. We find that the single customer requirement is appropriate. Our intent in the November 2011 Order was to limit the expanded standby rate provisions to single customers with multiple buildings or occupying campus style settings. Expansion beyond

the single customer raises the many issues identified by the Company that would obstruct implementation of the campus-style tariff or pose unacceptable risks to other ratepayers.

D. Definition of Premises and Physical Connection

The Company proposed that in order to qualify under the campus-style tariff, the multiple buildings must be located within a single premises and be physically connected prior to installation of the DG facility. The definition of premises is necessary and consistent with our intent to limit the expanded standby rate provisions to a single customer with multiple buildings or occupying a campus style setting. However, the physical connection requirement is unnecessary. Therefore, we direct the Company to file tariff revisions that provide customers with the ability to demonstrate that they meet the single premises requirement whether or not such buildings or parcels are physically interconnected.

E. Prohibition on Receiving Payment for Excess Electricity

The Company would prohibit a customer taking service under the campus-style tariff provision from taking service under SC 11. We find that customers should have the opportunity to size CHP installations in a manner that maximizes the economics of the facility and those economics should include the potential sale of excess generation to the Company through its existing Buy-Back Service. Therefore, customers taking service under both General Rule 20.2.1(B)(7) and General Rule 20.2.1(B)(8) shall be allowed to take service under SC 11. To avail themselves of that opportunity, customers under General Rule 20.2.1(B)(7) and General Rule 20.2.1(B)(8) must comply with all provisions of the Company's SC 11 tariff, as revised in compliance with this Order, including, but not limited to, those related to the seller's responsibility to assume any penalties

and / or deficiency payments as a result of the seller's failure to deliver energy and / or capacity according to schedule.

F. On-Site Generation Size Limitation

The Company proposed that a generating facility eligible for the campus-style tariff must have a total nameplate rating of over 2 MW but no more than 20 MW. General Rule 20.2.1(B)(7) limits single-customer high tension interconnections to between three to five MW. For consistency, and in light of our determination on the calculation of contract demand exceedances, we adopt the two MW to 20 MW size limitation and require that it apply to both General Rule 20.2.1(B)(7) and General Rule 20.2.1(B)(8). This will remove any unnecessary barriers to DG. We choose to exclude from application of these provisions customers with generation of no more than 2.0 MW, since doing otherwise could pose the potential for conflicts with existing net metering laws and with our Standardized Interconnection Requirements. Both are applicable to generation sized at no more than 2.0 MW.

G. The Burrstone Declaratory Ruling

Pareto, in its comments, requested that the proposed tariff be revised to include the ability "...to implement an alternative approach that distributes electricity directly to each customer" (as permitted under the Burrstone Ruling). Pareto notes that such an alternative approach may include the transfer of ownership of existing electric distribution assets to the DG owner. Con Edison rejected this suggestion stating that there are significant code and safety issues that would arise from allowing a non-utility entity to operate assets built to electrical codes applicable only to utilities. It also argues that there is no basis to expand the scope of this tariff proceeding to address transfer of utility assets. We find Con Edison's arguments persuasive and note that the Burrstone Ruling

only determined that Burrstone Energy Center is exempt from certain provisions of the Public Service Law. Since the Burrstone Ruling addresses a configuration separate and apart from the campus-style tariff at issue here, we reject Pareto's proposed tariff modifications.

H. Other Proposed Changes

All other proposed changes to expand the General Rule 20.2.1(B)(7) provisions to multiple building and campus-style tariff provision were reviewed. We find them reasonable and in Compliance with our November 2011 Order.

Petition for Rehearing

We grant the Company's petition for rehearing regarding the calculation of contract demand exceedances. In our November 2011 Order, we addressed a petition by Con Edison to clarify the provisions of Special Provision E concerning whether the contract demand on the customer's low tension service (serving the load of the building) should be offset by the capacity provided by the customer's generator to Con Edison through the high tension system. Con Edison argued that the generator's output to the high tension system should not be used as an offset to the contract demand since the Company incurred costs in providing local facilities to serve the customer's load on the low tension system.⁶

Most of the commenting parties in that matter argued that the output of the customer's generation on the high tension system should be netted against the low tension demand. NYC argued that a standby customer in such instances should not pay a contract demand charge based on its full load since the

⁶ By connecting the generator directly to Con Edison's high tension system, the customer will avoid the costs of customer owned facilities connecting generation to the building's native load.

utility will never have to supply that load. Therefore, NYC concluded that such customers should only have to pay for the local distribution costs needed to meet the maximum demand placed on Con Edison's system.

In reviewing the Company's proposed clarifications to Special Provision E, we stated in the November 2011 Order that contract demand charges collected from Special Provision E customers, like other standby customers, are designed to recover Con Edison's costs for electric facilities close to the customer that are necessary to deliver energy to that customer.⁷ We also noted that the intent of Special Provision E is to allow the customer the option to connect its generating facilities to the Company's high tension system. Otherwise, the customer would connect its generation directly to the building load (behind the meter) and the standard standby rates would be applicable.

The tariff language we were asked to interpret did not explicitly prohibit the connection of the generator's output to Con Edison's high tension system as an offset to the building load on the low tension system, nor did the tariff explicitly allow such netting.⁸ Thus, we found it reasonable to measure contract demand exceedances based on the net registered demand and rejected the Company's proposed clarifications to the tariff. However, Con Edison, on rehearing, points out that our determination would result in the Company not fully recovering the costs of the local facilities it installed before the customer's meter to serve the total load of the building, since the portion of the generator's output to the Company's high tension system is netted out of the total building demand on the

⁷ November 2011 Order at 8.

⁸ The standard standby rates allow for netting because the customer owned generation is behind the meter, serving the building load.

low tension service, resulting in avoidance of that portion of the charges. The commenting parties' claim that the Company has not proven that it will not fully recover its costs (including the costs of local infrastructure designed to serve the customer) is a red-herring because standby rates are designed to recover such costs.

While the original Special Provision E tariff language was silent on netting, we adopt, going forward and on a prospective basis only, the contract demand provisions of the proposed "campus-style" tariff amendments, as discussed above, for single buildings under General Rule 20.2.1(B)(7). Doing so balances the interests of customers and Con Edison in that Con Edison will recover the local distribution costs incurred to serve the customer's total building load. The customer will benefit as the contract demand exceedance penalties will no longer be imposed. In addition, customers can seek a lower contract demand based on load-shedding technology or processes. Finally, while the Company will set the contract demand, it will do so based on the customer's historical demand or for new buildings, based on an engineering analysis of the total estimated building demand. The contract demands set by the Company will be subject to revision, as necessary. We expect that the Company will work with its customers to set an appropriate contract demand level. However, if disputes arise, the customer or Con Edison may seek our assistance, either through a complaint or a petition.

The Commission orders:

1. The amendments listed in the Appendix and filed on March 19, 2012 and July 6, 2012 are approved, subject to the modifications contained in the body of this Order.

2. Consolidated Edison Company of New York, Inc. shall file further tariff revisions implementing the tariff modifications discussed in the body of this Order, to become effective on October 25, 2012, on not less than one day's notice.

3. The requirements of Public Service Law §66(12)(b) and 16 NYCRR §720-8.1 as to newspaper publication of the changes proposed in the July 6, 2012 filing and the further revisions directed in Ordering Clause 2 are waived.

4. This proceeding is closed upon compliance with Ordering Clause No. 2.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Secretary

SUBJECT: Filing by CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

Amendments to Schedule P.S.C. No. 10 - Electricity

Original Leaves Nos. 157.1, 157.2, 157.3, 157.4, 157.5

First Revised Leaf No. 61

Second Revised Leaf No. 157

Amendments to Schedule P.S.C. No. 12 - Electricity

Original Leaves Nos. 17.1, 17.2

First Revised Leaf No. 17

Second Revised Leaves Nos. 13, 14

Issued: March 19, 2012 Effective: June 22, 2012*

*Postponed to October 25, 2012.

Amendments to Schedule P.S.C. No. 12 - Electricity

Fourth Revised Leaves Nos. 13, 14

Issued: July 6, 2012 Effective: August 23, 2012*

*Postponed to October 25, 2012.

Cancellation Supplement No. 4

Issued: July 6, 2012 Effective: August 22, 2012*

*Postponed to October 25, 2012.

SAPA: 11-E-0299SP3 - STATE REGISTER - April 11, 2012

NEWSPAPER PUBLICATION: March 28, April 4, 11 and 18, 2012