

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on October 14, 2010

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Maureen F. Harris
Robert E. Curry, Jr.
James L. Larocca

CASE 09-E-0310 – In the Matter of the American Recovery and Reinvestment Act of
2009 - Utility Filings for New York Economic Stimulus.

ORDER ESTABLISHING RECOVERY MECHANISMS
FOR SMART GRID PROJECTS

(Issued and Effective October 19, 2010)

BY THE COMMISSION:

INTRODUCTION

By Order issued July 27, 2009,¹ we approved a wide-range of project proposals submitted to us by the six major New York investor-owned electric utilities in conjunction with the American Recovery and Reinvestment Act (ARRA) of 2009 and authorized the recovery of eligible project costs through the imposition of a surcharge. We approved projects totaling \$825 million, including customer matching funding of approximately \$391 million, with the expectation that this commitment would place New York electric utilities in a favorable position at the U.S. Department of Energy (DOE) to

¹ Cases 09-E-0310, et al., In the Matter of the American Recovery and Reinvestment Act of 2009, Order Authorizing Recovery of Costs Associated with Stimulus Projects (issued July 27, 2009) (Order Authorizing Recovery of Stimulus Project Costs).

secure an appropriate portion of the available competitive grant programs. Nationwide, the requests for ARRA funding far exceeded the funds available. Unfortunately, DOE did not select for grants all of the projects proposed by New York utilities. For those projects selected, the New York utilities filed surcharge proposals to effectuate the recovery of the customers' portion of the costs of the Smart Grid projects. In this Order, we address those filings.

BACKGROUND

The ARRA, signed into law on February 17, 2009, provides approximately \$463 billion in appropriations in several categories including agriculture, commerce, defense, government services, labor, health and human services, housing and urban development, and health information technology. The purpose of the ARRA is to reinvigorate the United States economy by, among other initiatives, investing in renewable energy sources, driving innovation in the fossil fuel industry, and adapting electric facilities to the needs of the future. Among the competitive programs funded by the ARRA is the DOE administered Electricity Delivery and Energy Reliability (EDER) Program, funded at approximately \$4.5 billion. The DOE established two specific competitive grant opportunities for the EDER Program, the Smart Grid Investment Grant Program (Investment Program)² and the Smart Grid Demonstration Program (Demonstration Program).³ Both programs require that applicants provide a certain level of non-federal funds to match the federal grant. The DOE issued final funding

² DOE Notice of Intent to Issue a Funding Opportunity Announcement for the Smart Grid Investment Grant Program (DE-FOA-0000058)(SGIG-NOI), issued April 16, 2009.

³ DOE Draft Financial Assistance Funding Opportunity Announcement for the Recovery Act – Smart Grid Demonstrations Program (DE-FOA-0000036)(SGD-Draft FOA), issued April 16, 2009.

announcements for the Investment and Demonstration Programs on June 25, 2009, and set an initial application deadline of August 6, 2009.⁴

Due to the cost sharing requirements of the ARRA, all six of New York's investor-owned electric utilities filed project proposals with the Commission seeking ratepayer funding for the balance of project costs, in connection with and in advance of their applications to the DOE for EDER grants. After an accelerated but rigorous regulatory review, we approved in the Order Authorizing Recovery of Stimulus Project Costs a wide-range of Smart Grid initiatives proposed by the six major investor-owned electric utilities in New York.

Consolidated Edison Company of New York, Inc. (Con Edison) received notice of a DOE award of \$136.2 million for transmission and distribution projects under the Investment Program. The New York Independent System Operator (NYISO), on behalf of transmission owners, received notice of a DOE award of \$37.4 million for statewide capacitor banks and phasor measurement units (PMUs) under the Investment Program. Under the DOE's Demonstration Program, Con Edison, along with its partners,⁵ received a DOE award of \$45.4 million to fund a scalable Smart Grid model, and Niagara Mohawk Power Corporation d/b/a National Grid (National Grid), along with its partner Premium Power Corporation, was awarded \$6.1 million by DOE to

⁴ DOE Investment Grant Program – Funding Opportunity Announcement (DE-FOA-0000058), issued June 25, 2009; DOE Demonstration Program – Funding Opportunity Announcement (DE-FOA-0000036), issued June 25, 2009.

⁵ Con Edison's partners include the Boeing Company, the Prosser Group, CALM Energy Inc., the New York City Economic Development Corporation, Columbia University, Viridity Energy, Inc., and Rudin Management Company.

demonstrate competitively priced advanced flow batteries.⁶ Thus, of the \$825 million of projects we approved in our Order Authorizing Recovery of Stimulus Project Costs, the DOE selected projects for New York investor owned utilities that total \$392.9 million. Of the DOE selected projects, Con Edison received the bulk of the funding for projects totaling \$348 million.

In compliance with the Order Authorizing Recovery of Stimulus Project Costs and subsequent to being notified by the DOE of the grants awarded, the six New York investor-owned electric utilities filed surcharge mechanisms to recover costs associated with projects approved by the DOE and the Commission. On April 1, 2010, Con Edison, National Grid, Central Hudson Gas and Electric Corporation (Central Hudson), and Orange and Rockland Utilities, Inc. (O&R) filed tariff amendments to implement surcharge mechanisms. On May 3, 2010, New York State Electric and Gas Corporation (NYSEG) and Rochester Gas and Electric Corporation (RG&E) filed tariff amendments to implement surcharge mechanisms for each company.

The reduced level of stimulus funding required from the majority of electric ratepayers has led us to reconsider the use of a surcharge mechanism for each of the electric utilities, with the exception of Con Edison, as we will discuss in detail below.

REQUIREMENTS OF THE ORDER AUTHORIZING RECOVERY OF STIMULUS PROJECT COSTS

In the Order Authorizing Recovery of Stimulus Project Costs, we evaluated the use of a surcharge compared to the use of a deferral mechanism for the recovery of costs from customers. It was our expectation that recovery assurance contained in that Order would place New York electric utilities in a favorable position at the DOE.

⁶ New York State Electric and Gas Corporation received a \$29.6 million award from DOE to demonstrate an advanced 150 megawatt (MW) compressed air energy storage facility and National Grid received a DOE award of \$2.2 million for workforce development. Neither company sought customer funding for these projects, nor were such projects approved by the Commission and, therefore, cost recovery for these projects is not addressed herein.

Because of the significant costs for capital projects contemplated by the Order Authorizing Recovery of Stimulus Project Costs, and because of the potential for higher rate impacts, if costs were deferred, we concluded that a surcharge mechanism was appropriate. A surcharge recovery approach would provide the utilities the benefit of receiving timely cost recovery of incremental depreciation, operation and maintenance (O&M) expense, taxes, and a cash return on their investments once projects are placed in-service. From the utilities' standpoint, surcharge recovery improves cash flow and the related financial metrics. A surcharge approach would benefit customers with lower rate impacts since they pay for project costs as they are placed in service.

Alternatively, deferral of incremental costs would likely result in higher rate impacts to customers in the next rate case since both the current year's project costs and recovery of deferred costs plus interest would be required. However, we stated that a "final implementation decision will be made after the DOE grants are approved, consideration is given to the parties' inputs, customer impacts are considered, and the individual company's facts and circumstances are analyzed."⁷

The Order Authorizing Recovery of Stimulus Project Costs also indicated what we expected in each of their surcharge filings. Specifically, we stated that the surcharge proposals must include a showing that utilities have considered and moderated, where appropriate, customer impacts; data regarding the total number of jobs created or retained, the extent to which New York State businesses were utilized for each completed project; and an identification of the individual projects, including their capital and operating costs and estimated in-service dates, along with operational savings and other benefits that should be flowed to customers. In addition to these requirements, we also required quarterly reporting on the status of the projects to the Director of the Office of Electric, Gas, and Water.

⁷ Order Authorizing Recovery of Stimulus Project Costs, p. 59.

THE UTILITY FILINGS

Con Edison

Con Edison filed tariff amendments to recover the costs associated with DOE approved Smart Grid projects through its Monthly Adjustment Clause (MAC), which is applicable to all full service and retail access customers.⁸ Con Edison has three groups of Smart Grid projects, and these projects are summarized in the table below:

Con Edison's Economic Stimulus Projects (\$ Millions)		
Projects		Estimated Cost
Smart Grid Investment Grant (SGIG) Projects		
1	Underground (UG) Distribution Sectionalizing Switches	\$40.0
2	Enhanced Supervisory Control and Data Acquisition (SCADA) System and Overhead (OH) Distribution Sectionalizing Switches	45.8
3	Remote Monitoring System Upgrade	47.6
4	Dynamic Modeling & Simulation	19.0
5	High Tension Monitoring & Data Acquisition System	2.0
6	Distributed Generation (DG) Interconnection	4.000
7	4 kV Grid Modernization	21.0
8	Intelligent Underground (UG) Automatic Loop	71.6
Total SGIG Projects		\$251.0
Smart Grid Demonstration Grant (SGDG) Project		
	Command and Control & Grid Support Project	\$90.5
NYISO Smart Grid Investment Grant (SGIG) Project – Con Edison's Share		
	Capacitor Banks & Phasor Measurement Unit Project	\$6.5
Estimated Total Stimulus Project Costs		\$348.0

⁸ Con Edison also proposes to recover costs under the Power Authority of the State of New York (PASNY) tariff, as a separate monthly surcharge to New York Power Authority (NYPA), and under the Economic Development Delivery Service (EDDS) tariff, as separate monthly surcharges to NYPA, County of Westchester Public Utility Service Agency (COWPUSA) and New York City Public Utility Service (NYCPUS). Recovery of costs as single monetary amounts on monthly bills rendered to NYPA for service under the PASNY tariff and to NYPA, COWPUSA, and NYCPUS for service under the EDDS tariff is consistent with other recovery mechanisms, such as the recovery of assessments under Public Service Law (PSL) §18-a, and the fact that Con Edison bills the applicable agency rather than the individual customers served under these tariffs.

Based on the estimated costs of these projects, Con Edison calculated a surcharge rate of \$0.0006 per kilowatt-hour (kWh) to provide recovery of the costs associated with these projects. Con Edison estimates that the impact of the proposed surcharge on the average residential customer utilizing 450 kWh would be approximately \$0.28 per month, or about \$3.36 annually, or 0.24% of the total billed charges. Con Edison estimates that the impact of the proposed surcharge on commercial customers at various levels of usage to be less than 0.3% of their monthly bills.

In addition, Con Edison proposed tariff amendments which would add a component to the MAC to credit customers for any payments made by New York State Energy Research and Development Authority (NYSERDA) pursuant to a settlement agreement in Indeck Corinth v. Paterson, et al., (Saratoga County Index No. 2009-369)(Albany County Index No. 5280-09). Pursuant to PSL §66(12)(b), Con Edison published notices of the proposed tariff changes.

National Grid

National Grid filed tariff amendments to implement a Smart Program Adjustment Surcharge (SPAS) to recover the costs associated with its portion of the NYISO capacitor bank installation project and the statewide phasor measurement network project and the Premium Power Corporation Energy Storage Demonstration Project, which is to demonstrate competitively priced advanced flow batteries. National Grid estimates that its portion of the NYISO projects' costs would be about \$19 million and the cost of the advanced flow batteries project to be approximately \$2.3 million. Based on the costs of these projects, National Grid estimates the impact on customers of the SPAS to be about \$0.00005 per kWh, which is equivalent to approximately \$0.03 per month for a typical 500 kWh per month residential customer, or 0.04% of the total billed charges.

In addition to its proposed surcharge, National Grid requested Commission approval to recover any federal income taxes incurred associated with the advanced flow

battery demonstration project⁹ and requested a waiver of the newspaper publication requirement in accordance with PSL §66(12)(b) and requests that the amendments be allowed to go into effect on not less than one-day's notice pursuant to 16 NYCRR §720-2.4.

Central Hudson

Central Hudson filed tariff amendments to implement an EDER surcharge to recover the costs associated with its portion of the NYISO capacitor bank installation project and the statewide phasor measurement network project. Central Hudson estimates that its portion of costs of these projects would be approximately \$3.3 million. Based on preliminary data, Central Hudson developed an example EDER surcharge rate of \$0.00005 per kWh to recover the associated prospective costs of these projects. Central Hudson estimates that the impact of the proposed surcharge on the average residential non-heat customer utilizing 625 kWh per month would be approximately \$0.03 per month (about \$0.36 annually) or, 0.03% of the total billed charges. Because of the minimal customer impact and the uncertainty regarding the actual timing of implementation of the EDER surcharge, Central Hudson requests waiver of the publishing requirements of PSL §66(12)(b) and requests that the tariff amendments be allowed to go into effect on not less than one-day's notice pursuant to 16 NYCRR §720-2.4.

NYSEG

NYSEG filed tariff amendments to implement an Electric Delivery and Reliability (EDR) surcharge to recover the costs associated with its portion of the NYISO

⁹ National Grid states that its calculations assume the “grant award for the Premium Power Corporation Energy Demonstration Project [is] subject to federal income taxes” (National Grid April 1, 2010 tariff filing cover letter p. 3). The underlying data provided by National Grid indicates that the tax impacts result from timing differences between the receipt of the grants and the tax deduction for the project costs. These impacts are immaterial and recovery is approved.

capacitor bank installation project and the statewide phasor measurement network project. NYSEG estimates that its portion of costs of these projects would be approximately \$11.0 million. Based on the estimated cost of the projects, NYSEG calculated an EDR surcharge rate of \$0.00007 per kWh to recover the associated prospective costs of these projects. NYSEG estimated that the impact of the proposed surcharge on the average residential customer utilizing 600 kWh per month would be approximately \$0.04 per month (about \$0.48 annually), or 0.05% of the total billed charges. Because of the minimal customer impact and the uncertainty regarding the actual timing of implementation of the EDR surcharge, NYSEG requested waiver of the publishing requirements of PSL §66(12)(b) and requests that the amendments be allowed to go into effect on not less than one-day's notice pursuant to 16 NYCRR §720-2.4.

O&R

O&R filed tariff amendments to recover from customers the incremental costs associated with its capital and operating expenditures for approved Smart Grid projects through its Energy Cost Adjustment (ECA), which is applicable to full service and retail access customers. O&R has two projects, the Distribution Capacitor Bank project and the NYISO capacitor bank installation project. The Distribution Capacitor Bank projects are estimated to cost \$1.9 million and O&R's portion of the cost of the NYISO capacitor bank installation project will be \$1.8 million. Based on the estimated costs of these projects, O&R calculated a surcharge rate of \$0.00010 per kWh applicable to distribution customers to recover the associated costs of these projects. O&R estimates that the impact of the proposed surcharge on the average residential customer utilizing 677 kWh would be approximately \$0.07 per month, or about \$0.84 annually, or 0.06% of the total billed charges. Pursuant to PSL §66(12)(b), O&R published notices of the proposed tariff changes.

RG&E

Similar to NYSEG, RG&E filed tariff amendments to implement an EDR surcharge to recover the costs associated with its portion of the NYISO capacitor bank installation project and the statewide phasor measurement network project. RG&E

estimates that its portion of costs of these projects would be approximately \$3.6 million. Based on the estimated cost of the projects, RG&E calculated an EDR surcharge rate of \$0.00005 per kWh to recover the associated prospective costs of these projects. RG&E estimates that the impact of the proposed surcharge on the average residential customer utilizing 600 kWh per month would be approximately \$0.03 per month (about \$0.36 annually), or 0.04% of the total billed charges. Because of the minimal customer impact and the uncertainty regarding the actual timing of implementation of the EDR surcharge, RG&E requested waiver of the publishing requirements of PSL §66(12)(b) and requests that the amendments be allowed to go into effect on not less than one-day's notice pursuant to 16 NYCRR §720-2.4.

SUMMARY OF COMMENTS

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), Notices of Proposed Rulemaking were published in the State Register on April 21 (for the Central Hudson, Con Edison, National Grid and O&R tariff amendments) and May 26, 2010 (for NYSEG and RG&E). The public comment periods provided for under SAPA have expired. Comments addressing all of the utilities' proposed tariff amendments were filed by Multiple Intervenors (MI) on June 7, 2010.¹⁰ Apart from the MI filing, no other comments were received.

Filing Requirements

In its comments, MI argues that the utilities' filings generally do not address requirements it claims are set forth in our Order Authorizing Recovery of Stimulus Project Costs. MI claims we required that the surcharge filings: 1) demonstrate the efforts undertaken by the utilities to seek additional funds to offset costs to customers; 2) identify the net operational and other benefits, and offsetting the costs to customers to

¹⁰ MI characterizes itself as an unincorporated association of approximately 55 large commercial, industrial and institutional energy customers with manufacturing and other facilities located throughout New York State.

account for such benefits; and, 3) provide a cumulative analysis of the rate impacts of the proposed surcharge mechanisms together with other existing surcharge mechanisms. MI also claims that we indicated that we “expect the utilities requesting DOE grants avail themselves of the maximum amounts available, including seeking in-kind grants where possible.”¹¹ Regarding the directive in the Order Authorizing Recovery of Stimulus Project Costs that benefits of the ARRA projects that accrue be flowed back to customers, MI notes that the filings fail to identify any operational or other benefits that would result from deploying the Smart Grid assets approved for funding by the DOE.¹²

MI’s final comment concerning its claim that the filings fail to meet the requirements of our Order Authorizing Recovery of Stimulus Project Costs is that only Central Hudson provided an analysis of the rate impacts, but its filing does not analyze the impacts associated with the Renewable Portfolio Standard (RPS) surcharge. Con Edison and O&R, according to MI, provided only a cursory analysis of select customer classes without any consideration of the impacts associated with the other existing surcharges (e.g., Temporary State Assessment (TSA), System Benefits Charge (SBC), Energy Efficiency Portfolio Standard (EEPS) and RPS), while the other utilities included no such analysis.¹³ Accordingly, MI recommends that we reject the filings and direct the utilities to make revised filings correcting the deficiencies MI has identified.

Surcharge Mechanism

Regarding the surcharge mechanisms, MI states that Smart Grid costs, if any are collected, should be allocated to each class based on the most recent cost of service study, and collected through rate mechanisms specific to each class.¹⁴ MI claims

¹¹ MI comments, p. 6. Order Authorizing Recovery of Stimulus Project Costs, p. 58.

¹² MI comments, p. 7.

¹³ MI comments, pp. 8-9.

¹⁴ MI comments, pp. 11-12.

that surcharges should be designed to allocate costs on a demand basis and where consistent with existing rate design, collected in a similar manner.

MI also states that there may be some customers that "...may not derive any benefit from certain of the Smart Grid assets to be deployed by the utilities...", and should not be allocated costs pertaining to those assets.¹⁵ According to MI, since the filings generally fail to provide information regarding the expected operational benefits and/or location (i.e., voltage level) of the Smart Grid assets, the Commission cannot properly assess prudent cost allocation among various customer classes and the filings must be rejected.

Thus, MI claims that there is no empirical evidence in the filings to support the conclusions that large energy users will derive the greatest benefits from the Smart Grid assets or that the costs that would be allocated to large energy users would be proportionate to the benefits they will derive from them. According to MI, volumetric charges can misallocate costs even within rate classes, resulting in an inappropriate shifting of cost responsibility from lower load factor customers to higher load factor customers.¹⁶ If a volumetric charge is utilized to collect fixed costs, customers within the same demand level (incurring the same level of fixed costs) would pay based on kWh consumption rather than actual demand costs. As such, MI requests the utilities be directed to submit new filings detailing the location within their systems at which all Smart Grid infrastructure related to the surcharges will be deployed and the expected operational and other benefits to each customer class.¹⁷ In addition, MI requests that in any final order implementing a surcharge mechanism we reiterate that these surcharge mechanisms are extraordinary and a unique situation and that our decision here would not to be construed as precedent.

¹⁵ MI comments, p. 13.

¹⁶ MI comments, p. 14.

¹⁷ MI comments, p. 15.

Exemptions from Surcharge

MI requests that we apply what it characterizes as “precedent” with respect to similar volumetric charges, and exempt NYPA allocations, flex-rate contracts and other tariff categories, such as National Grid customers receiving Empire Zone delivery rates pursuant to the Empire Zone Rider (EZR) pursuant to Rule 34 of National Grid’s electric tariff.¹⁸ MI notes that we have exempted NYPA customers from paying the SBC, and recently rejected arguments that would have either expanded or reduced the applicability of the SBC. Furthermore, MI states that in establishing the EEPS, we extended the current exemptions from SBC payments for the incremental amount to be collected through the SBC for EEPS. Finally, with regard to the TSA surcharge, MI notes that we specifically exempted certain flex-rate contracts and portions of NYPA allocations from the TSA surcharge.

National Grid’s Energy Storage Demonstration

MI’s final comments concern National Grid’s proposal to recover the costs associated with the Premium Power Corporation Energy Storage Demonstration Project.¹⁹ According to MI, because the project failed to achieve a matching funds grant of 50%, we should reject National Grid’s request seeking ratepayer funding for this project, since the Order Authorizing Recovery of Stimulus Project Costs clearly indicated that our approval did not extend to any project that failed to receive a 50% matching funds grant.

DISCUSSION AND CONCLUSION

In light of the fact that DOE did not select for matching funds all of the projects proposed by New York utilities and approved in our Order Authorizing Recovery of Stimulus Project Costs, we have reconsidered the use of a surcharge

¹⁸ MI comments, pp. 16-17.

¹⁹ MI comments, pp. 19-20.

mechanism for all six utilities. While Con Edison will be authorized to implement a surcharge, we will authorize the other electric utilities to implement deferral accounting for the approved projects as provided for in this Order. We will detail our determinations regarding the utilities' proposed surcharge mechanisms after addressing the comments filed by MI.

Comments of MI

Filing Requirements

MI's claim that the surcharge filings fail to address the requirements in the Order Authorizing Recovery of Stimulus Project Costs reads too much into our directives. The Order did not require that the utilities successfully undertake to seek additional funds to offset costs. Rather, it required the utilities to make such efforts and to establish that they had done so.²⁰ In this regard, we note that some of the utilities have secured grants or matching funds from sources other than customers, such as from partnerships as in the case of Con Edison and National Grid, and the recovery mechanisms we are authorizing herein will allow the utilities to continue to seek grants, matching funding or other funding, to the extent such other funding is still available or may become available.

We reviewed the projects submitted by the utilities in the Order Authorizing Recovery of Stimulus Project Costs and determined that, based upon our review, the projects would provide a reasonable investment in technology that improves the efficient and intelligent operation of the electric grid in the state.²¹ Other than the National Grid project, which is discussed below, we have reviewed the projects approved for funding by DOE and find them to be substantially the same projects as those we approved for cost recovery.²² Mindful of our stated intent that projects should not receive

²⁰ Order Authorizing Recovery of Stimulus Project Costs, p. 58.

²¹ Id. at 17-42.

²² Id. at 61.

less than 50% matching federal funds, we reviewed again the National Grid energy storage project, which was awarded only 46% in matching federal funds. For that project, we find that the proposal is one that should be funded, and for the reasons discussed below, it is approved.

In addition, MI's concern that the utilities have not identified in their filings the savings from these projects that should inure to customers is misplaced.²³ As we indicated in the Order Authorizing Recovery of Stimulus Project Costs, the DOE funding requires utilities to collect data for the performance of a cost benefit analysis. As a result of our review of these analyses, we will be able, through the mechanisms we approve to collect these Smart Grid costs, to ensure that any operational or cost benefits from these projects are appropriately returned to customers.

Since this data will not be complete until sometime after the projects are implemented, the utilities are directed to capture such benefits, as soon as they are determined, in the deferral mechanisms authorized herein or through the surcharge mechanism we authorize for Con Edison.²⁴ As the surcharge will be collected on a temporary basis and the deferrals are subject to our review and authorization for recovery from customers, we will address the reasonableness and adequacy of the utilities' calculation of operational and cost benefits resulting from these projects either when the surcharge is reset in the case of Con Edison or when rates are reset for the other utilities. Accordingly, we direct that the utilities provide complete data along with their analysis, as required in the Order Authorizing Recovery of Stimulus Project Costs,²⁵ as to the value of all such customer benefits in the testimony and exhibits accompanying their

²³ MI's claim that we directed that the utilities file a cumulative analysis of rate impacts of the proposed surcharge mechanisms with the existing surcharges is erroneous.

²⁴ Con Edison's proposed tariff amendments do not provide for offsetting such customer benefits. Con Edison shall correct this omission in the amended tariffs it will file pursuant to our directives in this Order.

²⁵ Order Authorizing Recovery of Stimulus Project Costs at 60.

future rate filings. At that time, Public Service staff (Staff) will review the data and the reasonableness of each utility's calculation of benefits that have been or will be flowed back to customers. In our final determination setting rates for each utility, we will make a determination as to the propriety and adequacy of the level of benefits that have been or should have been flowed to customers.

Surcharge Mechanism

Except for the costs of Smart Grid projects for Con Edison, much of MI's concerns with the recovery of the Smart Grid costs are addressed by the use of deferral mechanisms. As discussed in the prior section, the deferrals described in this Order will remain on the books of each utility authorized to implement such accounting until we have made a revenue requirement determination in each company's electric rate proceeding when their rates are reset. The use of deferral mechanisms will allow the Commission, Staff and interested parties to review, in the utility's next rate proceeding, the reasonableness of the costs and benefits for each project and whether the deferrals the companies have booked are consistent with the requirements of the Order Authorizing Recovery of Stimulus Project Costs. The projects will be considered at that time for inclusion in rate base, and the disposition of the deferred amounts and the rate mechanisms to be used for this purpose will be determined.²⁶

With regard to the surcharge we are establishing for Con Edison, we noted in the Order Authorizing Recovery of Stimulus Project Costs that we did not have enough information to determine how a surcharge should be levied, e.g., as a flat charge or a volumetric charge.²⁷ Con Edison now proposes that the Smart Grid matching funds be collected from customers through the MAC, which is collected on a volumetric basis. Con Edison further proposes to recover costs under the PASNY tariff as a separate monthly surcharge to NYPA and under the EDDS tariff as separate monthly surcharges

²⁶ Id. at 62.

²⁷ Id. at 61.

to NYPA, COWPUSA and NYCPUS. The Smart Grid project costs are allocated among Con Edison customers, NYPA delivery service, and EDDS in proportion to their respective forecasted delivery revenues, which is consistent with allocation of the Company's delivery revenue requirement.

As discussed further below, we will approve the use of the MAC, and the separate monthly surcharges under the PASNY and EDDS tariffs, to collect these costs from customers. The Smart Grid projects are designed to make the delivery system more robust which should benefit all customers. The MAC is applicable to all Con Edison customers, allows for tracking and review, and also allows for refunds or credits to customers should our review of the reasonableness of the costs incurred and the benefits flowed to customers for each project indicate that customers are due refunds or credits.

We reviewed the differential in recovering costs through the MAC compared to allocating the costs to each class based on that class' overall delivery revenues. The differential would be less than 0.2% of total delivery revenues for most service classes. Moreover, Con Edison's proposed additional tariff change, which we also approve, will provide for crediting to customers through the MAC of NYSERDA funds to offset a portion of the project costs for the four kilovolt (kV) Grid Modernization Project and the Demonstration Project, thereby aligning the costs and credits to be flowed to all customers through the MAC. The use of the MAC allows Con Edison to flow back to customers the NYSERDA credits in the same manner as they are collected from customers. It is also an appropriate mechanism in this instance as this method of recovering these costs is a short-term measure until the capital projects are included in rate base and in Con Edison's revenue requirement in the next rate proceeding. Finally, even though the bill impacts provided by Con Edison are only around 0.2%, the use of a surcharge is preferable to deferring the associated costs, with interest, to be recovered in the next rate case. We also find that utilizing a surcharge by rate component, which currently does not exist, to collect these costs from customers on a cost of service basis as proposed by MI would create additional costs to customers for Con Edison to design and implement such a mechanism.

We do, however, reiterate that the surcharge mechanism we are approving for Con Edison is extraordinary and a unique situation and is not to be construed as precedent. This is a unique opportunity to provide customers the benefits of investments in the Con Edison electric system that may improve the efficiency and reliability of the system at a significantly reduced cost though leveraging ARRA grants.²⁸

Exemptions from Surcharge

MI also errs in its claim that the volumetric surcharge we are implementing for Con Edison should not be imposed on NYPA allocations, flex-rate contracts and other tariff categories. While it is true that we have not generally imposed RPS, SBC, EEPS and TSA surcharges on such customers, these surcharges are quite distinguishable from the Smart Grid cost recovery we are implementing herein. The Smart Grid capital expenditures, subject to a review for reasonableness, will eventually be included in Con Edison's rate base. As such, the costs of these investments are properly recoverable from all delivery customers since all delivery customers, including those identified by MI in its comments, are responsible for providing the utility with the recovery of such rate base costs. Therefore, we reject MI's request that certain customers be exempt from the Smart Grid cost surcharge for Con Edison.

National Grid – Energy Storage Demonstration

As discussed above, we reject MI's request that we deny National Grid's request for customer funding for this project. While the Order Authorizing Recovery of Stimulus Project Costs indicated that our approval did not extend to any project that failed to receive a 50% matching funds grant, we again reviewed the National Grid project, and we are convinced that, despite the fact that the DOE grant for the entire demonstration project is 48%, the project appears worthy of funding. This is particularly true because National Grid's portion of the costs of this project is only \$1.6 million (of the \$6.5 million total project cost). Thus, while the project did not achieve 50% funding,

²⁸ Id. at 59.

National Grid customers will fund only about 25% of the net cost as a result of the cost sharing arrangements National Grid has entered into with its partners on the project. Therefore, we approve the project and allow National Grid to implement deferral accounting for the costs to be collected from customers.

Deferral Accounting and Surcharge

In our Order Authorizing Recovery of Stimulus Project Costs, we chose the use of surcharge mechanisms for each utility to collect these costs from customers because of the potential rate impacts that would accumulate if we directed the utilities to establish deferral mechanisms to recover the costs associated with the \$825 million of approved projects identified for that order. For example, in our Order Authorizing Recovery of Stimulus Project Costs, we estimated that the annual increase in revenues associated with National Grid's proposed projects would be approximately \$25.8 million.²⁹ Now, as indicated in its April 1, 2010 filing, National Grid estimates the increase in annual revenues from its proposed surcharge to be less than \$1.5 million, approximately 6% of what we originally estimated. Similarly, the annual increase in revenues estimated by Central Hudson's, NYSEG's, O&R's, and RG&E's proposed surcharges are each approximately \$1 million or less.

Because the potential for significant compound rate impacts is no longer an issue for these utilities, we see no need to establish surcharges to recover the costs associated with the ARRA stimulus projects for Central Hudson, National Grid, NYSEG, O&R, and RG&E. Instead, we direct these utilities to establish deferral accounting to record the costs associated with their approved stimulus projects. We expect that the

²⁹ Order Authorizing Recovery of Stimulus Project Costs, Appendix C.

disposition of these deferrals will be determined in the next electric rate proceeding for each company.³⁰

With regard to the content of the utility's surcharge filings, we stated that the surcharge proposals must show that utilities have considered and moderated, where appropriate, customer impacts; report data regarding the total number of jobs created or retained and to the extent New York State businesses were utilized for each completed project; and identify the individual projects, including their capital and operating costs, and estimated in-service dates. In addition to these requirements, we also required quarterly reporting on the status of the projects to the Director of the Office of Electric, Gas and Water.

At the time we issued our Order Authorizing Recovery of Stimulus Project Costs, it was believed that this information would be readily available for inclusion in the utility filings. In fact, much of this information will only become available as the projects proceed and the reporting requirements are being met by the Order's quarterly reporting requirements. Furthermore, since all we have before us are estimated project costs, it is likely premature to address the jobs impacts at this time.

We intend to rely on the quarterly reporting process to provide the data regarding the total number of jobs created or retained and to what extent New York State businesses were utilized for each completed project. We find the quarterly reporting sufficient to meet our directives in the Order Authorizing Recovery of Stimulus Project Costs, as the reports provide or will provide all the information we required and the deferral mechanisms and surcharge approved for Con Edison will allow us to make appropriate adjustments, as required. Therefore, we will modify our directive regarding

³⁰ Similar to the approach taken for Con Edison, the other utilities will only be allowed to defer the incremental costs or carrying charges associated with the capital projects approved by the Commission. In addition, utilities will not be entitled to accrue carrying charges during the time capital projects are accruing allowance for funds used during construction (AFUDC) and they will only be entitled to carrying charges if the projects are incremental in the aggregate to those allowed in rates or rate case capital expenditure targets.

the content required in the filings in the Order Authorizing Recovery of Stimulus Project Costs.

Con Edison Surcharge

We now turn to Con Edison's proposed surcharge mechanism which was developed based on the recovery of the costs associated with three groups of projects that received DOE funding, and were approved in the Order Authorizing Recovery of Stimulus Project Costs. The total forecasted costs of the three projects and Con Edison's share of the costs proposed for rate recovery are detailed in the table below.

Consolidated Edison's ARRA Projects Proposed Recovery from Customers \$Million		
Project	Total Project Cost	Proposed Recovery from Customers
Smart Grid Investment Projects (SGIP)	\$251.0	\$125.5
Smart Grid Demonstration Project (SGDP)	90.5	16.4
NYISO – Capacitor Banks and Phasor Measurement Unit Project (Con Edison's Share)	6.5	3.3
Total	\$348.0	\$145.2

As shown below, Con Edison's portion of the project costs, which it proposes to recover over the next three years through the temporary surcharge, is \$50.8 million.

Consolidated Edison's ARRA Projects Proposed Recovery of Surcharge through the MAC \$Million (includes GRT)	
Period	Surcharge Amounts
January – December 2010	\$ 2.9
January – December 2011	17.6
January – December 2012	30.3
Total	\$50.8

Con Edison's surcharge filings, associated workpapers, and supplemental information were reviewed and analyzed. Based on this review, we found that Con Edison's proposed tariff amendments do not provide for offsetting benefits, and, as discussed above, Con Edison is directed to file tariff amendments to ensure that any operational or cost benefits from these projects are appropriately returned to customers. Also, concern was raised that Con Edison's proposed surcharge could potentially contain non-incremental costs and that this could result in double recovery of costs provided for in rates.

The Smart Grid Demonstration Project is considered a Research and Development project and Con Edison has requested deferral and amortization of the project costs, for recovery via surcharge over five years (or, until its next rate case). However, the determination of the amounts and types of costs to be deferred will not be known until the project is completed. Since some or all of the project costs might normally have been expensed, there is a possibility that some of the estimated costs Con Edison is projecting to be reimbursed for through the surcharge may already have been included in the development of expenses included in current rates under the 2010 Electric Rate Order.³¹ However, it is likely that certain of the project costs related to equipment and contractors, specific to this project, are incremental and were not included in Con Edison's rate case forecast, so those costs would be considered for recovery in the surcharge.

What is less clear, and can only be determined once the actual costs are known, is whether the expenses related to labor and fringe benefits are incremental to the expenses used to develop current rates. Since labor resources can be redeployed by management, the burden rests with Con Edison to clearly demonstrate that any labor and fringe benefits costs for this project are truly incremental to the costs provided for in the

³¹ Case 09-E-0428, Con Edison – Electric Rates, Order Establishing Three-Year Electric Rate Plan (issued March 26, 2010)(2010 Electric Rate Order).

2010 Electric Rate Order. Additionally, in order to prove to us that these labor costs are incremental, Con Edison must also show that its overall labor expense for any give rate year is at, or above, what was assumed in the revenue requirements in the 2010 Electric Rate Order.

Since the determination of whether and how much of these costs are potentially double-counted can only be determined after the fact, and because these costs are not significant in relation to the \$50.8 million total surcharge forecast for the same three-year period, it is not necessary to adjust the forecast for a potential labor and fringe benefit double-count at this time. A determination on whether labor and fringe benefit reimbursements are incremental to the amounts accounted for in the development of current rates shall be made in the reconciliation of the surcharge, which shall be performed at the conclusion of each surcharge period and shall coincide with Con Edison's electric rate year (April 1st to March 31st).

The other two groups, the Smart Grid Investment Projects and the NYISO – Capacitor Banks and Phasor Measurement Unit Project (Con Edison's share of the NYISO project), are being accounted for as capital expenditures and double recovery of labor costs is not a concern. Pursuant to the 2010 Electric Rate Order, under-spending on capital project targets is subject to reconciliation. However, the 2010 Electric Rate Order specifically excludes ARRA projects in establishing and reconciling Capital Spending Targets.³²

We expect that Con Edison's Net Plant Target filings will specifically exclude any costs related to these DOE funded projects. Since the above capital projects are specifically excluded from the capital expenditure targets established in current rates in the 2010 Electric Rate Order, and will be excluded from its Net Plant Target filing, no double-count should occur.

³² 2010 Electric Rate Order at 11-12, Joint Proposal, p. 14.

The Commission orders:

1. Consolidated Edison Company of New York, Inc. is authorized to put the amendments listed in the Appendix into effect on November 1, 2010, provided it files further revisions, as directed in the body of this Order, on not less than one day's notice to become effective on November 1, 2010.

2. Central Hudson Gas and Electric Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, New York State Electric & Gas Corporation, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation are directed to file supplements, on not less than one day's notice, to be effective on November 1, 2010, to cancel the tariff amendments listed in the Appendix.

3. Central Hudson Gas and Electric Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, New York State Electric & Gas Corporation, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation are authorized to implement deferral accounting as discussed in the body of this Order.

4. Waiver of the requirements of §66(12)(b) of the Public Service Law as to newspaper publication of the amendments requested by Central Hudson Gas & Electric Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, New York State Electric & Gas Corporation, and Rochester Gas and Electric Corporation is granted.

5. Waiver of the requirements of §66(12)(b) of the Public Service Law as to newspaper publication of the amendments and supplements directed in Ordering Clauses 1 and 2 is granted.

6. This proceeding is continued.

By the Commission,

JACLYN A. BRILLING
Secretary

SUBJECT: Filing by CENTRAL HUDSON GAS AND ELECTRIC CORPORATION

Amendments to Schedule P.S.C. No. 15 - Electricity

Original Leaves No. 163.5.6, 163.5.7

Issued: April 1, 2010 Effective: August 1, 2010*

*Postponed to November 1, 2010.

SAPA: 09-E-0310SP3 – STATE REGISTER – April 21, 2010

NEWSPAPER PUBLICATION: Waived.

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

Amendments to Schedule P.S.C. No. 9 - Electricity

Original Leaf No. 163-B

Fourth Revised Leaf No. 164-A

Twentieth Revised Leaf No. 163-A

Amendment to Schedule PASNY No. 4

Original Leaf No. 7-E

Amendment to Economic Development Delivery Service No. 2

Original Leaf No. 7-E

Issued: April 1, 2010 Effective: June 30, 2010*

*Postponed to November 1, 2010

SAPA: 09-E-0310SP5 – STATE REGISTER – April 21, 2010

NEWSPAPER PUBLICATION: April 9, 16, 23 and 30, 2010

SUBJECT: Filing by NIAGARA MOHAWK POWER CORPORATION
D/B/A NATIONAL GRID

Amendments to Schedule P.S.C. No. 220 - Electricity

Original Leaves No. 263.4, 263.5

Issued: April 1, 2010 Effective: August 1, 2010*

*Postponed to November 1, 2010.

SAPA: 09-E-0310SP4 – STATE REGISTER – April 21, 2010

NEWSPAPER PUBLICATION: Waived.

SUBJECT: Filing by NEW YORK STATE ELECTRIC & GAS CORPORATION

Amendments to Schedule P.S.C. No. 120- Electricity

Fourth Revised Leaf No. 27

Eighth Revised Leaf No. 2

Eleventh Revised Leaves Nos. 161

Eighteenth Revised Leaf No. 310

Nineteenth Revised Leaves Nos. 197, 318

Twentieth Revised Leaves Nos. 123, 261, 300

Twenty-First Revised Leaves Nos. 133, 208, 221

Twenty-Second Revised Leaf No. 272

Thirty-Sixth Revised Leaf No. 289

Amendments to Schedule P.S.C. No. 121- Electricity

Third Revised Leaf No. 14.1

Seventh Revised Leaf No. 2

Seventeenth Revised Leaves Nos. 24, 59

Thirty-Seventh Revised Leaf No. 18

Issued: May 3, 2010

Effective: September 1, 2010*

*Postponed to November 1, 2010.

SAPA: 09-E-0310SP7 – STATE REGISTER – May 26, 2010

NEWSPAPER PUBLICATION: Waived.

SUBJECT: Filing by ORANGE AND ROCKLAND UTILITIES, INC.

Amendments to Schedule P.S.C. No. 2 - Electricity

Original Leaves Nos. 23Y-2, 23Y-3
Fifth Revised Leaf No. 23Y-1
Tenth Revised Leaf No. 23Z
Twelfth Revised Leaf No. 23Y

Issued: April 1, 2010 Effective: June 30, 2010*
*Postponed to November 1, 2010.

SAPA: 09-E-0310SP6 – STATE REGISTER – April 21, 2010

NEWSPAPER PUBLICATION: April 15, 22, 29 and May 6, 2010

SUBJECT: Filing by ROCHESTER GAS AND ELECTRIC CORPORATION

Amendments to Schedule P.S.C. No. 18- Street Lighting

Second Revised Leaf No. 11.1
Fourth Revised Leaves Nos. 39, 45.4
Seventh Revised Leaf No. 30
Eighth Revised Leaf No. 11

Amendments to Schedule P.S.C. No. 19- Electricity

First Revised Leaf No. 81.1.1
Fourth Revised Leaf No. 210.5
Fifth Revised Leaves Nos. 166.4, 189, 190.4, 195.2, 244
Sixth Revised Leaf No. 164.4
Seventh Revised Leaf No. 218

Eighth Revised Leaves Nos. 81.1, 234
Ninth Revised Leaf No. 176
Tenth Revised Leaves Nos. 81, 161.2
Twelfth Revised Leaf No. 224

Issued: May 3, 2010 Effective: September 1, 2010*
*Postponed to November 1, 2010.

SAPA: 09-E-0310SP8 – STATE REGISTER – May 26, 2010

NEWSPAPER PUBLICATION: Waived.