

Consumer Power Advocates

Continuum Health Partners
Fordham University
Luthin Associates, Inc.
Memorial Sloan Kettering Cancer Center
NYU Hospitals Center

Montefiore Medical Center
Mount Sinai Medical Center
New York Presbyterian Hospital
New York University

Via e-mail to secretary@dps.ny.gov

September 17, 2012

Honorable Jaclyn Brilling
Secretary
New York Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

RE: Case 09-E-0428- Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc, for Electric Service.

Dear Secretary Brilling:

On July 9, 2012, Con Edison filed for recovery of new PJM OATT charges through the Monthly Adjustment Clause (MAC). In its filing, the Company states that the certain grandfathered transmission service agreements (TSAs) expired on April 30, 2012, and that, as a result, it took measures to obtain service under the PJM OATT. The Company has petitioned to recover those charges, less the cost of TSAs embedded in current rates, through its MAC, CPA objects.

On November 24, 2009, Consumer Power Advocates ("CPA") along with Consolidated Edison ("the Company") and other interested parties filed a Joint Proposal ("JP") establishing rates and other terms of service ("Joint Proposal") covering the three year period ending March 31, 2013 for electric service. The resulting rate plan allowed for the recovery of all the expected costs of service, including necessary reliability costs. It also included an allocation of those costs between the customers served directly by Con Edison and those served by NYPA. The further JP included the possibility of establishing rates for an additional two years. As of this date, the Company has chosen not to file for new rates for rate years 4 and 5 of the current rate plan, nor has it filed a new rate case. At this time, it appears that the earliest new rates could be effective is October 1, 2013.

First, it is not clear to us that these OATT charges are the equivalent of the expiring TSAs. This is a factual determination of the type that should be subject to the scrutiny of a formal rate case. The Company has had the opportunity to file such a case, as it had the opportunity to extend the current rate plan. Instead, it chose to continue indefinitely the rates developed for rate year 3 of the current rate plan. Those rates included a full consideration of all the Company's costs, and we, as an active Party in the case, are not aware of any consideration of PJM OATT charges. The Company's filing is correctly seen as an attempt to increase costs for one specific item, without consideration of all the other possibly offsetting changes that have occurred since those rates were developed.

Second, we note that the expired rate plan included TSA costs in base rates for both Con Edison and NYPA customers, and allowed only differences from that estimate to be reconciled through the MAC, effectively assigning any increase to Con Edison customers. The purpose of including these charges in base rates is to establish an allocation between NYPA and Con Edison customers, and the reconciliation of differences in the MAC is acceptable only to the extent that those differences are small.

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By this filing, Con Edison would triple the total cost of these transmission services (assuming *arguendo* that these OATT services are equivalent to the expired PJM services). The allocation of revenue responsibility is often among the most contentious issues in ratemaking, and is of utmost importance to our members. Con Edison's filing creates a *de facto* allocation to one class of customers that will be difficult to reverse in the future. An increase on cost of this magnitude demands reasonable allocation among all ratepayers. Accordingly, CPA urges the Commission to reject the Company's filing.

Respectfully submitted,

Catherine M. Luthin

Executive Director
Consumer Power Advocates
Cc: All Active Parties

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