

PENDING PETITION MEMO

Date: 1/7/2009

TO : OCS
OGC

FROM: CENTRAL OPERATIONS

UTILITY: CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

SUBJECT: 09-E-0017

Petition of the Bay City Metering Company, Inc. to Submeter Electricity at 28 East 10th St New York, NY, located in the territory of Consolidated Edison Company of New York, Inc., filed in C 26998.

BAY CITY METERING COMPANY, INC.

247 WEST 37TH STREET 6TH FLOOR

NEW YORK, NY 10018

2009 JAN -7 PM 2:06

PHONE (212) 575-0785 FAX (212) 575-9321

December 29, 2008

Ms. Jaclyn A. Brillling Secretary
New York State Department of Public Service
Agency Building #3
3 Empire State Plaza
Albany, New York 12223-1350

Re: Petition for Permission to Install Electrical Submetering for
28 East 10th Street New York City

Dear Ms. Brillling:

On behalf of the Management of 28 East 10th Street, a Privately Owned Directly Metered Residential property that is being converted to a Condominium and is located at 28 East 10th Street in Manhattan, we are requesting a review and approval of this petition by the Public Service Commission to convert the above referenced building from Directly Metered Electrical Metering to Master Metering and Submetering.

This property is owned by Devonshire Associates LLC, c/o Cheshire Group, 826 Broadway, New York, N.Y. 10003, 11th Floor, a privately held Real Estate investment firm that intends to renovate the apartments and create a Condominium for all of the apartments. There are presently One Hundred Seven (107) residential apartments in the building of which Forty-Eight (48) apartments are currently in the process of renovation and will have contracts with new Unit Owners. Of the 107 original apartments Fifty-Seven (57) are Rent Regulated and will remain rentals and their individual electricity is directly metered to the Consolidated Edison Company. Each of these rental apartments will remain directly metered by Con Edison until they vacate the apartment or become a Unit Owner.

The Condominium Management will include in the offering plan with prospective Unit Owners an electrical submetering section explaining the submetering plan and the conditions in accordance with the Public Service Commission Rules and Regulations contained in 16 NYCRR, Chapter II, Electric Utilities, Subchapter A., Service, and Part 96. (f).

We are requesting approval to submeter all of the apartments as they become available, renovated and converted to Units in the Condominium.

The metering equipment to be installed will be Intellimeter AB electronic watt-hour meters which are approved for installation in New York State and New York City and meet or exceed the ANSI requirements for accuracy of electronic metering. These meters are included in the Public Service Commission Approved Meter Listing. The Intellimeter meters have an exceptional record of accuracy and longevity that will serve this development for many years with a dependable system that will be serviced and maintained by the Bay City Metering Company, Inc.

In accordance with the resolution concerning master metering as indicated in Part 96 of the Public Service Commission Regulations, all requirements will be complied with in the contract for each new Unit Owner which details the master metering and submetering of electricity as indicated in paragraphs (d) (2) and (b)(3 and 4) of section 96.2, specifically that a rate cap is in effect at all times and a complaint procedure in accordance with the HEFPA rules will be in force.

The reasons for the conversion are as follows:

1. To avail the Condominium of the lower charges from the Utility Company for the Master Metered Electrical Service through Bulk Purchase of the electrical power which will assist in the electrical upgrading and submetering of the entire property.
2. To use the monetary savings generated by the conversion to perform energy saving projects to make the building more energy efficient and to update the electrical wiring and systems throughout the apartments and the building distribution system to provide a safe and adequate distribution system for modern appliances.
3. To reduce the overall costs for the maintenance of the Public Areas of the building by making the building services more efficient and energy conservative and, in turn, a better building for the Unit Owners.
4. To make the residential residents more aware of the cost of energy so that they become conservative in their use of the electrical service and become more aware of energy saving lamps and appliances that will reduce the energy usage within their Units and, in turn, produce lower electrical charges.

Since the existing rental residents of the building will remain until their leases expire or they vacate the apartment and access can be achieved to renovate the apartment, it will require retaining the present billing system of direct monthly electrical billing by the Con Edison Company. The renovation work will only take place as the apartments become available and the submeters will be installed over time as new Unit Owners occupy the apartments. New Master metering equipment will be installed in preparation of becoming a Submetered Condominium as soon as approval is granted. It is the intention of the Owners to maintain both types of electrical services so that the controlled and fair market rate apartment residents will remain directly metered electrically by Con Edison and only the new Unit Owners will be submetered as their units are completed.

This will be an ongoing conversion and only as the Condominium Units are sold will the final number of units be determined. The final completion of the development may take a number of years depending upon how long the controlled residents will be residents of the building. It is the understanding of the Owners that all of the apartments will eventually become Condominium Units. Therefore, at the completion of the conversion there will be No Stabilized units and No Fair Market Value residents.

An information letter will be distributed to prospective Unit Owners explaining the submetering program together with the rate cap provisions and the complaint procedures and protections. For the new Unit Owners there will be a complete explanation of the rate cap and complaint procedures included in the Contract of Sale for these residents. The new Unit Owners will either agree with the submetering program or not become a Unit Owner in this development.

The Owners of the property do not intend to convert or renovate any of the apartments that are presently occupied by controlled residents, but may have new rental residents occupying renovated submetered Units until new residents become Unit Owners.

The billing will be prepared monthly by a recognized Submetering Company with at least fifteen years experience with residential billing in New York City and Consolidated Edison Company requirements. The explanation of the billing procedures, rates, and conditions are to be included in the contract of sale for the Units in clear, plain language, and in a manner to be easily understood.

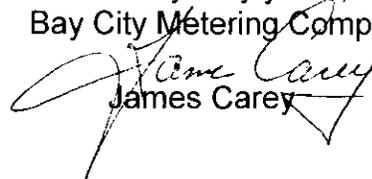
The following electrical clause will be part of the Contract of Sale with all Unit Owners which provides for all of the necessary conditions and regulations for electrical submetering.

Electricity

(a) It is agreed and understood electricity for lighting, appliances, and air conditioning equipment located within the demised premises shall be provided by the Management on a submetered basis. The Unit Owner shall pay to the Management the amounts indicated on a monthly statement for the use of the electric service within 20 days of the rendering of a bill for the service. The Unit Owner will be billed from readings taken from a submeter for the electrical service used exclusively within their demised premises and no other space within the building. (b) Bills will be rendered monthly and calculated based upon the then current residential rates and charges approved by the Public Service Commission for the Con Edison Company servicing the area in which the building is located. These rates and charges shall include all charges for energy, adjustments, taxes, and any other fees or charges normally included in the Con Edison Company monthly billing, or less at the Management's discretion, but the charge may never be more than the Tenant would have been charged for direct metered electric service by the Con Edison Company for the same amount of service. (c) The meters will be revenue grade meters manufactured by a reputable metering manufacturing company and will be accurate and reliable to within the same requirements as the Con Edison Company is required follow. (d) A complaint procedure shall be in effect that is consistent with the Home Energy Fair Practices Act (HEFPA) which is the same rules and requirements as the Con Edison Company must follow for their direct metered customers. (e) The Landlord will retain a reputable Submetering Agent for the property that will be responsible for reading the meters, preparation of the monthly billing, assuring the accuracy of the meters, and responding to the Unit Owner's complaints and questions promptly. (f) In the unlikely event a complaint can not be resolved by the Submetering Agent, the Public Service Commission may be contacted and a case will be set up with the Public Service Commission, who will arbitrate the complaint and determine the action to be taken to resolve the complaint. Their determination will be binding upon both the Unit Owner and the Management. The nearest office of the Public Service Commission is at 90 Church Street, New York, N.Y. 10007 and their phone number is (800) 342-3377

The Condominium will appreciate your consideration of this petition for approval of master metering and submetering of all of the apartments within the building as they become available and contracts are entered into for the new Units.

Very truly yours,
Bay City Metering Company, Inc.


James Carey

**Devonshire Associates LLC
c/o The Cheshire Group
826 Broadway
New York, N.Y. 10003**

December, 2008

For insertion in the offering plan for the Devonshire House Condominium

Re: Electrical Submetering Information

As a condition for approval by the Public Service Commission of the proposal for conversion from direct electrical metering to electrical submetering for all purchasers of Units, we offer the following information regarding the electrical submetering of 28 East 10th Street

A new master meter which measures all of the power used by the residential Unit Owners as well as the public areas, will be installed in the basement electric room and new electronic meters will be installed throughout the building to service each Residential Unit separately when it is purchased. These will be connected to a new electrical distribution system located within the public areas of the building. The new distribution panels will provide electrical power to each Unit individually. We have been advised by Bay City Metering Company, Inc. that the new meters will be in accordance with all of the rules and regulations of the governmental agencies having jurisdiction and that the new meters must meet or exceed the requirements for accuracy and longevity set by the American National Standards Institute (ANSI).

These new meters will be submeters and shall be residential common elements and the expense of maintaining them shall be paid by the Board of Managers as an expense of the Residential Unit Owners. The meters will be read and serviced by a private metering company, initially Bay City Metering Company, Inc., which shall prepare individual monthly bills indicating the dates covered, the number of days in the period, the previous reading, the present reading, the total usage and the charges for the usage for that period. Full breakdown bills are presented by the submetering agent upon request.

Master metered residential buildings are billed on Consolidated Edison's SC-8 rate, which is the Large User Residential rate and the only rate a master metered, residential building is eligible for. This rate is the most advantageous residential rate, and with the conversion to submetering, this rate would be the rate in effect, and we have been advised that this currently provides the lowest cost

for electrical energy to a residential condominium. The Unit Owner billing will be based upon the same rates charged to all residential customers within the Con Edison Area, Rate Schedule E-1 including all charges, adjustments, taxes, and any other charges included in the approved tariff for rate classification SC-1.

The Unit Owner's monthly electric charges shall be billed by Cooper Square Realty, Inc., the managing agent, and paid to the Condominium as a surcharge to monthly Residential Common Charges. Cooper Square Realty, Inc. will then pay the monthly Con Edison for all the submetered Units. Non-purchasing tenants shall continue to be billed directly by Con Edison and shall pay Con Edison directly at the current rate classification.

Bay City Metering Company, Inc. shall read the meters monthly, prepare the bills, test the meters, repair and replace the meters if required, audit Con Edison bills, and answer Unit Owner's billing complaints and questions. It shall also be responsible for maintaining the accuracy of the metering.

Electrical metering equipment can be read and reported by any qualified submetering company, so if Bay City Metering Company, Inc. does not satisfy the needs of the Condominium, or raises its monthly fees above normal, another submetering company can be retained without any loss of operation.

Copies of the individual bills are given to each Unit Owner for his or her information. Cooper Square Realty, Inc. will include the electrical charge on the monthly Common Charge statement so that the monthly Common Charges and electricity will be paid by the Unit Owner with one check payable to the Condominium.

Bay City Metering Company, Inc. shall answer all questions and complaints in accordance with the Home Energy Fair Practices Act, HEFPA, (New York Public Service Law, Section 31-50; 16 NYCRR, Parts 11 and 12), which is intended to insure that the rate charged is never higher than the Unit Owner would have paid if directly metered by the Consolidated Edison Company. HEFPA is intended to provide for the protection of each Unit Owner so that he or she is fairly treated in all dealings with the utility supplying the electric service. In this case the "Utility" is the Condominium. In the event a Unit Owner is not satisfied with the testing, and checking by Bay City Metering Company, Inc. the Unit Owner may contact the Public Service Commission and request a case be opened to resolve the complaint. The decision of the Public Service Commission will be binding upon both the Unit Owner and the Management.

Since the property is being gradually converted into an electrically submetered Condominium it is required by the Public Service Commission, that all prospective Unit Owners be informed of the submetering program and a section be inserted in the Purchase Agreement in clear and understandable language explaining the electrical submetering program that will be performed by the Condominium and their Submetering Agent.

The following electrical clause will be part of the Purchase Agreement with all Unit Owners, it includes conditions and regulations for electrical submetering:

Electricity

(a) It is agreed and understood that electricity for lighting, appliances, and air conditioning equipment located within the Unit shall be provided by the Condominium on a submetered basis. The Unit Owner shall pay to the Condominium Board of Managers the amount billed for electric service on the date Common Charges are due together with his or her payment of Common Charges. . The Unit Owner will be billed from readings taken from a submeter for the electrical service used solely in the Unit,

(b) Bills will be rendered monthly and calculated based upon the then current residential rates and charges approved by the Public Service Commission for Con Edison which services the area in which the building is located. These rates and charges shall include all charges for energy, adjustments, taxes, and any other fees or charges normally included in the Con Edison monthly billing, or less at the Condominium's discretion, it is intended that charges may never be more than the Unit Owner would have been charged for direct metered electric service by Con Edison for the same amount of service,

(c) The submeter will be a revenue grade meter manufactured by a reputable metering manufacturing company to be accurate and reliable to within the same requirements as Con Edison is required to meet,

(d) A complaint procedure shall be in effect consistent with the Home Energy Fair Practices Act (HEFPA). These are the same rules and requirements as Con Edison must follow for its direct metered customers,

(e) The Condominium will retain a reputable submetering agent for the purchased Units which will be responsible for reading the meters, preparation of the monthly billing for delivery to the Condominium, assuring the accuracy of the submeters, and responding to the Unit Owner's complaints and questions promptly,

(f) In the unlikely event a complaint can not be resolved by the submetering agent, the Public Service Commission may be contacted and a case will be set up with the Public Service Commission, who will arbitrate the complaint and determine the action to be taken to resolve the electrical or billing complaint. Their determination will be binding upon both the Unit Owner and the Management. The nearest office of the Public Service Commission is at 90 Church Street, New York, N.Y. 10007 and their phone number is (800) 342-3377

Devonshire House is a privately owned residential property currently being converted condominium ownership. Historically, residential tenants were directly metered individually by Con Edison and non-

purchasing tenants and commercial units will remain under that arrangement. The existing residents will remain connected to the current distribution system and continue to be billed directly by Con Edison. There will not any interconnection between the existing distribution system to the apartments and the new upgraded electrical distribution system. A new upgraded electrical distribution system is being installed to provide power to the purchasing Unit Owners under the submetering program. Should any or all of the existing residents decide to purchase and become Unit Owners their Unit will be serviced from the new electrical system and become electrically submetered by the Condominium.

If you should have any questions or comments you may contact the Public Service Commission in writing, at 90 Church Street, New York, NY. 10007-2919 or telephone them at 1-800-342-3377.