

January 9, 2014

VIA ELECTRONIC FILING

Hon. Kathleen H. Burgess
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: Case 13-E-0030 – 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

Case 13-G-0031 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Gas Service

Case 13-S-0032 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Steam Service

Case 13-M-0376 – Petition of Consolidated Edison Company of New York, Inc. for Approval of Proposed Distribution of a Property Tax Refund

Case 13-M-0040 – Petition of Consolidated Edison Company of New York, Inc. for Approval of Accounting Treatment of the Proceeds of the Proposed Sale of Property

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 Burgess:

The City of New York hereby submits for filing in the above-referenced proceedings its Statement in Support of the Joint Proposal. Copies have been served electronically upon all parties on the active service lists.

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Please contact me with any questions.

Respectfully submitted,

COUCH WHITE, LLP

Amanda De Vito Trinsey

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ADT/dap
Enclosure

cc: Administrative Law Judge Paul Agresta (via e-mail, w/enc.)
Administrative Law Judge Julia Smead Bielawski (via e-mail, w/enc.)
Active Parties (via e-mail, w/enc.)

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

**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** **Case 13-E-0030**

**Proceeding on Motion of the Commission as to the Rates,
Charges, Rules and Regulations of Consolidated Edison
Company of New York, Inc. for Gas Service** **Case 13-G-0031**

**Proceeding on Motion of the Commission as to the Rates
Charges, Rules and Regulations of Consolidated Edison
Company of New York, Inc. for Steam Service** **Case 13-S-0032**

**Petition of Consolidated Edison Company of New York,
Inc. for Approval of Proposed Distribution of a Property
Tax Refund** **Case 13-M-0376**

**Petition of Consolidated Edison Company of New York,
Inc. for Approval of Accounting Treatment of the
Proceeds of the Proposed Sale of Property** **Case 13-M-0040**

**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** **Case 09-E-0428**

**CITY OF NEW YORK
STATEMENT IN SUPPORT OF JOINT PROPOSAL**

Dated: January 9, 2014

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PRELIMINARY STATEMENT

The City of New York (“City”), one of the largest customers on the Consolidated Edison Company of New York, Inc. (“Con Edison”) electric, gas, and steam systems, hereby submits this Statement in Support of the Joint Proposal (“JP”) filed with the New York State Public Service Commission (“PSC”) on December 31, 2013. The JP recommends a comprehensive resolution of the issues in these proceedings and should be adopted by the PSC.¹

ARGUMENT

THE JP IS IN THE PUBLIC INTEREST AND SHOULD BE APPROVED

A. The JP Complies With The PSC’s Settlement Guidelines

The PSC has established the following criteria for evaluating a joint proposal: (a) the extent to which a joint proposal is supported by adverse parties; (b) whether the record for decision is adequate; and (c) whether the settlement is consistent with law and public policy, has a rational basis, balances the interests of customers and shareholders, and compares favorably with the probable outcome of litigation.² Except as noted in footnote 1, above, the PSC should adopt the JP because it satisfies these criteria.³

There is broad support for the JP. The parties that executed the JP represent a broad range of interests that often are adverse, and include the City, Con Edison, Department of Public Service Staff (“Staff”), customer groups, and environmental advocates (the “Signatory Parties”). The City is aware that the Public Utility Law Project (“PULP”) intends to oppose the JP generally, but it does not know the basis of PULP’s objections. PULP’s primary interest in this case has been the treatment of low income customers, and the JP expands the benefits for such customers. On balance, the fact that the JP is broadly

¹ The steam rates recommended in the JP reflect annual allocations of East River Repowering Project fuel costs with increasing reliance on the Above Market Methodology. The City continues to oppose this transition and respectfully urges the PSC to fully reinstate use of the Incremental Cost Method.

² Case 90-M-0255, Proceeding on Settlement Procedures and Guidelines, Opinion No. 92-2 (issued March 24, 1992).

³ Due to space limitations, the City’s Statement focuses on the issues of greatest importance to the City. The omission herein of any issue resolved in the JP should not be construed as a lack of support for same.

supported by groups, including the City, Staff, and Utility Intervention Unit, who also advocate for low-income and other residential customers should outweigh PULP's criticism of its adequacy.

The record provides a rational basis for concluding that the compromises set forth in the JP are reasonable and appropriate. All parties received sufficient notice of the settlement negotiations, as required by 16 NYCRR § 3.9(a). To the extent possible, the schedule for negotiations accommodated all parties, and no party was denied the opportunity to participate in the negotiations. In addition to this Statement and those submitted by other Signatory Parties, the record before the PSC includes more than 12,000 pages of testimony, 998 exhibits, and more than 1,000 pages of briefs. The issues raised throughout these proceedings are either resolved in the JP, or the JP establishes a process for resolving them.

B. The JP Is Just And Reasonable, Balances the Interests of Customers and Shareholders And Is Superior To A Litigated Result

The JP was developed, and should be read and interpreted, as a comprehensive proposal that resolves the vast majority of the issues that arose during these proceedings.⁴ The provisions should be considered in their entirety, with each supporting the others. In viewing the JP in this manner, the PSC should conclude that its provisions fairly and reasonably address the relevant policies, initiatives, and goals of the State and City, the needs of customers, and shareholder interests. Consequently, the PSC should find that the JP is in the public interest and adopt its terms and conditions.

1. Revenue Requirement, Term And Capital Structure

Con Edison sought substantial revenue requirement increases in its initial filing, Staff sought substantial decreases, and the City and other parties sought similar or different revenue adjustments as Staff. As is typical in rate cases, the parties filed testimony on a one-year rate case. The JP calls for a two-year revenue freeze for electric and three-year revenue freeze for gas and steam. Clearly, revenue freezes are

⁴ Like any settlement, the JP represents a compromise resolution among the parties in which no party received everything it wanted. Overall, the Signatory Parties found its terms to be fair and reasonable, even though some issues may not have been addressed.

within the potential litigated results of these cases, and it is very common for a settlement to extend for multiple years even though the litigated result would be for a single rate year.

Similarly, the proposed capital structure is within the scope of the parties' testimonial positions. The recommended returns on equity of 9.2% for electric and 9.3% for gas and steam, and the 48% equity ratio, are within the range of the litigated positions of Staff, the UIU, and Con Edison.

Importantly, there is no dispute among the parties that the revenue requirements and capital structure will adequately support the utility's short- and long-term operations and current credit rating, and would enable shareholders to earn a reasonable return on their investment, while maintaining just and reasonable rates. The recommended revenue requirements strike a fair balance among the interests of customers and shareholders, are supported by the record in these proceedings, and are consistent with the public comments received by the PSC opposing rate increases.

The multi-year terms of the rate plans provide material benefits to customers and Con Edison. Customers will benefit from the certainty of the revenue freezes for an extended period of time, as well as the elimination of the threat of rate increases (a possible outcome had the case been litigated). Con Edison will benefit from a predictable revenue stream that will facilitate the investment decisions necessary to continue providing safe and reliable service.

2. Storm Hardening And Resiliency

Hurricane Sandy amply demonstrated that reliable electric, gas, and steam delivery service is essential to the economy and public health, safety, and welfare, and that the City's infrastructure – including its utility infrastructure – must be made more resilient to future weather events. The City's testimony in these proceedings described its extensive effort to implement a comprehensive resiliency plan. In fact, the storm hardening and resiliency measures included in the JP are as valuable as the revenue freezes, in terms of the benefits they provide to the City and its residents and businesses, and securing the favorable resolution of these issues was of paramount importance to the City. Con Edison is embarking on an ambitious agenda to strengthen its infrastructure, and its capital investments should benefit its customers for many years. These investments, and the Company's adoption of new design standards and new

technologies, should reduce the number and duration of outages wrought by future storms while satisfying its customers' increasing demand for electricity.

Con Edison's rate filings included a proposal to undertake a four-year, \$1 billion capital investment plan to harden its electric, gas and steam infrastructures against future weather events. The City identified numerous deficiencies in Con Edison's capital plans and recommended comprehensive enhancements to same. (Stewart-D; NYC Policy-D; NYC EIP-D/R; NYC CRP-D; NYC GSIP-D/R.)⁵ During these proceedings, Con Edison, the City and several other parties negotiated changes to the Company's capital investment design standards for resilience- or storm hardening-related capital projects initiated during 2014. This new design standard is that which the City advocated in its testimony, and requires that projects be designed to withstand a 100-year flood plus three feet of freeboard to address, among other things, considerations of future climate change. (NYC CRP-D.)

During these proceedings, Con Edison convened a Storm Hardening and Resiliency Collaborative ("Collaborative") that examined issues related to the Company's resiliency proposals. On December 5, 2013, Con Edison filed with the PSC a report describing its plans for capital investments related to storm hardening and resiliency. The Collaborative has proven to be useful for vetting the issues and sharing information, and it helped to convince Staff and other parties of the need for the resiliency-related investments. The Collaborative was also useful as a forum to share and discuss different models and approaches for measuring risk and prioritizing investments, building on work the City undertook as part of its resiliency assessment.⁶

⁵ Citations herein to pre-filed testimony identify the witness or panel providing direct (*e.g.*, Stewart-D) and/or rebuttal (*e.g.*, Stewart-R) testimony.

⁶ In its Collaborative Report, Con Edison adopted all of the City's most critical storm hardening and resiliency proposals, which include: (1) an up-to-date design standard for storm surge protection based on the best available flood maps (the latest Federal Emergency Management Agency flooding-related maps) and climate risk information (plus three feet of freeboard); (2) risk-based project prioritization based on modeled storm surge probabilities and substation criticality; and (3) integration of resiliency concepts into Con Edison's design practices and long-range planning.

Consistent with the City's testimony, the JP recommends that Con Edison's storm hardening programs be fully funded without increasing rates, and that Con Edison focus increased effort on replacing leak-prone pipe in flood-prone areas. The JP also leaves open the possibility of increasing storm hardening expenditures in the outer years, based on continued work of the Collaborative. (JP 51.) Overall, the JP's treatment of this issue reflects a balancing of the litigated positions, fairly reflects all relevant interests, and is reasonable and in the public interest.

3. Voltage Reduction

The City's testimony demonstrated that Con Edison periodically has relied on voltage reductions to address system demands, and that such action has increasingly become a concern for the City. (NYC EIP-D.) The JP addresses this issue by obligating Con Edison to study its use of voltage reductions, whether additional investments or revisions to its investment plans may reduce or avoid future voltage reductions, and whether it is in customers' interest for Con Edison to make those investments. (JP 109.) Con Edison would submit the findings of that study for PSC review. Follow up on this issue may occur in these proceedings, in the Company's next rate case, or in Case 13-E-0541, as appropriate.⁷ This provision reasonably addresses concerns regarding the utility's voltage reduction practices, is within the range of litigated positions, and is in the public interest.

4. Electric and Gas Low Income Programs

The City sponsored testimony advocating that the electric and gas low income programs be continued and expanded in size to serve all eligible customers. (Noel-D.) The JP recommends that the size of the programs be expanded as proposed by the City, the electric bill discount provided to qualified customers be increased from \$8.50 to \$9.50, and the benefits provided to participating S.C. 1 gas customers be continued without interruption or diminution. (JP 103-04.) These recommendations are consistent with the City's testimony and the litigated positions of other parties, and will be provided without increasing

⁷ Case 13-E-0541, Electric Utility Power Quality, has been instituted to examine power quality issues across the State.

electric or gas delivery rates. The JP reflects the Signatory Parties' collective judgment that the negotiated settlement of low income issues yields material support for electric and gas low income customers without unduly burdening other customers, and it fairly balances the interests of all Con Edison customers.

5. Distributed Generation ("DG")

State and City energy policies promote the increased deployment of DG resources. The City identified several proposals in Con Edison's rate filings that would impede such development, and sought to eliminate them. (Arnett-D; Stephens-D.)

The JP addresses some of the City's most pressing concerns with respect to DG. The JP avoids a proposed increase to the annual charge on standby service customers and allows certain customers to maintain control over their Contract Demand charge. (JP 76.) These provisions provide rate stability for current and future DG developers.

The JP obligates Con Edison to include in its electric, gas and steam tariffs references to its DG Guide for projects between 2-20 MW. (*Id.* 77.) Doing so will enable customers to seek recourse from the PSC if Con Edison fails to comply with the timeframes set forth in the Guide. Further, the JP supports City and State efforts to promote microgrids by requiring Con Edison to file an implementation plan within six months of a microgrid report that the New York State Energy Research and Development Authority will file early in 2014. (*Id.* 97.) As part of that effort, Con Edison will convene a collaborative to consider eliminating the single-customer limitation in the campus-style tariff, which limitation acts as another impediment to DG development. (*Id.*)

Collectively, these provisions should support the increased penetration of DG resources within the Con Edison service territory, are consistent with City and State energy policies, as well as the litigated positions advanced by the City and other parties, and are in the public interest.

6. Oil-to-Gas Conversions

The City instituted Clean Heat New York to improve air quality and the health of its citizens through the elimination of the use of heavy fuel oil for heating purposes. To assist with this effort, Con Edison developed a new oil-to-gas conversion program to reduce the cost of, and to facilitate, customer

conversions from fuel oil to natural gas for their boilers and furnaces. Given the health benefits from oil-to-gas conversions, as well as the increased revenues for Con Edison, the City advocated for enhancements to Con Edison's conversion efforts. (Caputo-D.) The JP incorporates many of the City's proposals. The JP establishes metrics and reporting requirements that should promote utility investment in conversions and encourage Con Edison to meet its conversion targets. (JP 21-23.) The JP should enhance Con Edison's Area Growth Program by: (a) requiring Area Growth Zone maps for the entire program (2013-2019) to be made public; (b) extending the customer commitment deadline by an additional 30 days, as needed; and (c) requiring Con Edison to provide more details and more transparency in its cost estimates for prospective customers. (*Id.*)

Further, the JP recommends tariff changes that would eliminate barriers to conversions and, therefore, should increase the number of participating customers. For example, Con Edison's cost responsibilities for main and service line extensions will be modified to allow 100 feet for each firm gas applicant on a common main that agrees to connect at the same time. Tariff language also will be clarified to allow refunds to customers paying for a line extension via a surcharge as well as customers making up-front contributions to the extension cost. Finally, to further promote conversions, Con Edison will examine the potential use of surcharges to recover main installation costs from interruptible customers. (*Id.*) Because the JP provisions regarding oil-to-gas conversion programs will yield material environmental and economic benefits, and are reasonable and within the range of potential litigated outcomes, the PSC should approve these recommendations.

7. Electric Revenue Allocation and Rate Design

Relying on a flawed embedded cost of service ("ECOS") study, Con Edison and Staff recommended rate increases for the New York Power Authority ("NYPA") class (of which the City is a member) that were significantly greater than the system average increase. The City sponsored testimony demonstrating that the ECOS study is unreliable and that a wider tolerance band should be used to determine the appropriate rate for the NYPA class. (Stephens-D/R.)

The JP resolves this revenue allocation issue via compromise that is based on all of the evidence presented during the litigation phase of the proceeding, rather than just the ECOS study. The NYPA class' rates will be increased by \$18 million more than they would have been if they were adjusted at the system average, phased-in over two years. This revenue allocation will result in a higher relative rate of return for the NYPA class in the future. (JP 72.) Given the substantial difference in the parties' litigated positions, this compromise is fair and reasonable. It properly balances the interests of all customer classes, and it ensures that the NYPA class does not receive a large rate increase when the overall revenues are frozen. Further, this allocation is a reasonable approach to substantially reducing the long-standing dispute about the level of the NYPA class' rate.

Other electric rate design proposals, including a new rate designed to promote the use of plug-in electric vehicles and a new Business Incentive Rate program to support small businesses and non-profits in areas devastated by Hurricane Sandy, are also consistent with the litigation record and in the public interest. These programs will help to advance important public policies and to restore certain areas of the City to their condition prior to Sandy. (JP 79-81.)

8. Gas Non-Firm Rate Design

Con Edison proposed material, detrimental changes to its non-firm gas rates. The City and other parties opposed many of the proposed changes. (Gorman-D.) The JP largely reverses the Company's proposals and provides continued support for interruptible customers. For example, the large rate increase proposed by Con Edison was significantly reduced, ensuring that interruptible customers subject to that rate do not experience a substantial burden when the revenue requirement is frozen. The option of multi-year contracts was also preserved, which provides these customers with the benefit of rate stability and the ability to forecast and budget for future gas expenses. The increase in the dollar thresholds for the non-firm revenue sharing mechanism properly captures for firm ratepayers a larger share of such revenues. This mechanism helps to moderate firm rates and thus benefits all firm customers. Collectively, these rate design changes provide material, tangible benefits to firm and non-firm customers, and they represent a fair result compared to the potential litigated outcome of these issues.

9. Depreciation

The City and other parties proposed significant changes to the manner in which Con Edison calculates depreciation. These changes were advanced to reverse the growing electric and steam reserve deficiencies. (Arnett-D.) In contrast, Con Edison proposed changes to the depreciation factors that would have exacerbated the deficiencies. The JP represents a compromise between the parties' positions that continues the existing depreciation scheme, but with adjustments that resulted in eliminating both the existing and projected reserve deficiency amortizations. This compromise serves both customer and shareholder interests because it provides an appropriate level of cash flow to the Company while limiting the present and future costs imposed on customers.

10. Steam Air Conditioning Incentive

Steam air conditioning ("AC") load provides valuable benefits to Con Edison's electric and gas customers, and generates material revenues for the utility. Con Edison proposed to support this load by extending a vital incentive for the installation of new or replacement steam AC units. The City supported this proposal, and the JP recommends that the incentive be extended for all three RYs. (JP 90.) This provision is not opposed by any party, is consistent with potential litigated outcomes, and extends key support for steam AC customers.

11. Steam Outage Enhanced Customer Protections

The JP provides that Con Edison's steam customers that experience an extended service outage following a storm event will enjoy protections analogous to those approved recently for electric customers. (JP 98-99.) This recommendation is consistent with the PSC's recent order in Case 13-M-0061.⁸ There, the PSC deferred consideration of outage protections for steam customers to a Con Edison steam rate case. Inasmuch as the protections described in the JP were already deemed reasonable and in the public interest by the PSC, there is no reason to deny steam customers such protections or to reject this aspect of the JP.

⁸ Case 13-M-0061, Customer Outage Credits, Order Establishing Policies (issued November 18, 2013).

CONCLUSION

The terms and conditions of the JP are fair, reasonable, and consistent with the PSC's settlement guidelines. The record in these proceedings provides substantial evidence upon which the PSC can find that the JP is in the public interest, produces just and reasonable rates, and provides for safe and adequate service. Except as noted in footnote 1, above, the City therefore respectfully urges the PSC to adopt the JP without modification.

Respectfully submitted,

Dated: January 9, 2014
Albany, New York

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