

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on April 15, 2021

COMMISSIONERS PRESENT:

John B. Howard, Interim Chair
Diane X. Burman, concurring
James S. Alesi
Tracey A. Edwards

CASE 19-E-0065 - 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.

ORDER REGARDING TRANSMISSION INVESTMENT PETITITON

(Issued and Effective April 15, 2021)

BY THE COMMISSION:

INTRODUCTION

By petition filed on December 30, 2020, Consolidated Edison Company of New York, Inc. (Con Edison or the Company) seeks approval and authorization to recover the costs of three transmission projects: the Rainey to Corona Project, the Gowanus to Greenwood Project, and the Goethals to Greenwood Project (collectively, the Transmission Reliability and Clean Energy (TRACE) projects). According to the Company, the TRACE projects are needed to address potential transmission security deficiencies in two of the Company's Transmission Load Areas (TLAs) resulting from the potential retirement and/or change in usage of peaking facilities in the Company's service territory. The Company indicates that the projects are justified on both reliability and Climate Leadership and Community Protection Act (CLCPA) grounds and that the projects will provide additional

valuable benefits; therefore, the TRACE projects are “no regrets” investments.

Con Edison’s currently effective electric rate plan expressly permits the Company to seek recovery of incremental costs associated with investments needed to (1) maintain reliability following the unavailability of certain generation units unable or unwilling to satisfy the new air emission regulations of the New York State Department of Environmental Conservation (DEC), and/or (2) implement the CLCPA - during its term.¹ Since the projects and corresponding capital expenditures were not known at the time, it expressly permits the Company to seek recovery of the incremental costs associated with such investments. Therefore, the Company requests cost recovery through a surcharge until the effective date of its next rate plan, at which time the capital investments and associated Operations and Maintenance expenses (O&M) would be reflected in base rates.

Additionally, Con Edison notes that the Utility Transmission and Distribution Investment Working Group Report² recommended that, for projects with CLCPA-related benefits, costs should be allocated throughout the State on a load ratio share basis. Therefore, the Company seeks a Commission determination that, while the costs of the TRACE projects are recovered from its own customers, such recovery should be credited to Con Edison’s account in any future CLCPA accounting

¹ Case 19-E-0065, Con Edison Rates, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plan, Attachment A Joint Proposal, page 6, footnote 9 (issued January 16, 2020).

² Case 20-E-0197, Accelerated Renewable Energy Growth and Community Benefit Act - Implementation, Utility Transmission and Distribution Investment Working Group Report (filed November 2, 2020) (Utility T&D Investment Report).

framework established by the Commission so that its customers' cost share of CLCPA projects is equitable and consistent with a load ratio share allocation.

Finally, Con Edison requests that the Commission adopt a "halting mechanism" that would allow the Company to recover all costs incurred for a TRACE project prior to and following the suspension of construction in the event that any of the projects are cancelled by the Commission. These costs would also include any costs related to Con Edison's financial obligations to third parties resulting from halting one or more of the TRACE projects. The Company states that, while it views the TRACE projects as "no regrets" and advancing the goals of the CLCPA, the Commission may want to eliminate one or more TRACE projects, and the halting mechanism confirms the Company's right to cost recovery.

By this Order the Commission authorizes a surcharge to recover the TRACE projects' carrying costs after they are placed into service and until such costs are reflected in base rates, and rejects the Company's request to implement a halting mechanism. In this Order, the Commission makes the determination that cost recovery of the TRACE projects is initially the responsibility of Con Edison's delivery customers, including the New York Power Authority (NYPA) delivery customers, however, this Order does not make a determination of the appropriateness of including such costs in the CLCPA cost tracker.

BACKGROUND

Simple-cycle and regenerative combustion turbines (known as peakers or peaking units) are used to meet peak electric demand during the summer. They operate during the ozone season (May 1 through September 30), which is typically

the worst air quality period. In 2019, the DEC adopted regulations requiring peakers, other than black-start resources, with a nameplate capacity of 15 megawatts (MW) or greater that inject power into the transmission and distribution system to comply with regulations limiting allowable nitrogen oxide (NO_x) during the ozone season.³ Peakers subject to these regulations must emit, on a parts per million dry volume basis (ppmvd), corrected to 15 percent oxygen, 1) less than 100 ppmvd by May 1, 2023, and 2) less than 25 ppmvd for gaseous fuels and less than 42 ppmvd for distillate oil or other liquid fuel by May 1, 2025. The peaker may also come into compliance with the Peaker Rule in two other ways. The fossil-fuel fired peaker owner or operator could cease operations during ozone season (known as the Ozone Season Stop) or use energy storage or renewable generation at or within a half-mile of the facility in combination with the peaker to get a combined emission rate below the facilities' pound per megawatt hour (MWh) limit.⁴

According to the Company, it has determined, in coordination with the New York Independent System Operator (NYISO), that the Peaker Rule will result in the projected retirement or unavailability of fossil fuel fired generation in its service territory, creating transmission security

³ 6 NYCRR Subpart 227-3 (Peaker Rule).

⁴ The per MWh emission limits are 1) less than 3.0 pounds (lb) NO_x/MWh by May 1, 2023, and 2) less than 1.5 lb NO_x/MWh for gaseous fuels and less than 2.0 lb NO_x/MWh for distillate oil or other liquid fuel by May 1, 2025.

deficiencies in two of its TLAs.⁵ Furthermore, owners or operators of all peakers in the Company's service territory submitted compliance plans to DEC in March 2020 indicating their intention to retire or utilize the Ozone Season Stop. Con Edison correctly notes that it is the Company's responsibility to ensure reliable service.⁶ The Company indicates that it must begin working on the TRACE projects so to meet specific reliability needs that occur in 2023 and 2025.

Con Edison also claims that the TRACE projects are needed to facilitate the achievement of the goals of the CLCPA.⁷ In the November 2nd Utility T&D Investment Report filed pursuant to the Accelerated Renewable Energy Growth and Community Benefit Act⁸ (the Act) Con Edison claims that the TRACE Projects are necessary to facilitate achievement of the State's clean energy goals under the CLCPA. The Company claims that the retirement of downstate fossil fuel-fired peaking generation units without the addition of any new fossil-fueled power plants is itself a significant, first step towards achieving New York's clean energy future. This is because the peaking units are located in

⁵ The NYISO reported these needs in its 2020 Reliability Needs Assessment (the "RNA") and in its Third Quarter 2020 Short-Term Assessment of Reliability⁵ (the "STAR"; together with the RNA, the "Comprehensive Reliability Plan Studies" or "CRP Studies"). 2020 RNA Report, <https://www.nyiso.com/documents/20142/2248793/2020-RNAREport-Nov2020.pdf> at 3, Figure 1, and <https://www.nyiso.com/documents/20142/16004172/2020-Q3-STAR-Report-vFinal.pdf> at 3, 19-20.

⁶ Public Service Law (PSL) §65; Case 05-E-0889, Policies and Procedures Regarding Generation Unit Retirements, Order Adopting Notice Requirements for Generation Unit Retirements (issued December 20, 2005). NYISO Open Access Transmission Tariff (OATT), Attachment Y, §31.2.

⁷ See New York Environmental Conservation Law, Article 75.

⁸ PSL §§162, 123, and 126.

and near to environmental justice communities and facilitating their retirement will bring near-term air quality improvement to those communities on the worst air quality days, which is among the key goals of the CLCPA.

Con Edison also contends that the TRACE projects will open pathways or off-ramps into constrained TLAs and that these pathways are a pre-requisite to the delivery of upstate and offshore renewable generation to the State's largest concentration of population and demand for energy. Aside from the reliability and CLCPA grounds, the Company also claims that the TRACE projects will potentially contribute to reducing the New York Bulk Power Transmission Facilities (BPTF) needs, also resulting from the Peaker Rule, which are identified by the NYISO in the RNA beginning in year 2025, thereby helping to facilitate the resolution of those BPTF needs. Con Edison notes that one of the TRACE projects unbottles Staten Island, allowing generation located there to contribute more effectively to the New York City Transmission Security and Resource Adequacy needs. Furthermore, Con Edison claims that by providing redundancy for existing transmission infrastructure, the TRACE projects will tend to improve resiliency if there are any transmission line failures.

NOTICE OF PROPOSED RULE MAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rulemaking was published in the State Register on January 20, 2021 [SAPA No. 19-E-0065SP2]. The time for submission of comments pursuant to the Notice expired on March 22, 2021. Sierra Club, New York City Environmental Justice Alliance and UPROSE (collectively, Sierra Club) jointly filed comments. Comments were also filed by NRG Berrians East Development LLC (NRG Berrians), the Utility

Intervention Unit of the New York Department of State (UIU), and the City of New York (NYC). The comments received are addressed below.

COMMENTS

NRG Berrians

On January 19, 2021, NRG Berrians filed comments addressing Con Edison's instant petition to provide the Commission with additional information to assist the Commission in assessing certain electric reliability needs in New York City and the benefits of a potential market-based solution. NRG Berrians states that it supports the State's initiative to reduce greenhouse gas emissions, its climate mandates, and the need to ensure a reliable electric grid. NRG Berrians states its understanding that its proposed 437 MW Astoria Replacement Project (Astoria Project) would also resolve the Astoria East/Corona 138 kilovolt (kV) constraint and would relieve a Near-Term Reliability Need on the New York City 345kV bulk power transmission system, as identified by the NYISO.⁹

NRG Berrians notes that in 2017, it anticipated that peakers would be subject to new DEC regulations to reduce emissions from legacy peaking facilities. It began efforts to convert its already approved 1,040 MW combined cycle Astoria Replacement Project to a 437 MW simple-cycle project. In March 2017, the revised project was entered into the NYISO 2017 Class Year process, and a petition was submitted to the New York State Board on Siting and the Environment (NY Siting Board) seeking clarification of the process to modify the existing permits for

⁹ NYISO defines a Near-Term Reliability Need as one that arises within the first three years of a Short-Term Assessment of Reliability (STAR). NYISO Short-Term Reliability: 2020 Quarter 3, October 13, 2020, at 4.

the Astoria Project. In July 2018, NRG Berrians accepted the results of the NYISO 2017 Class Year studies and posted approximately \$5 million in financial assurance to secure interconnection rights for its project. According to NRG Berrians, it has continued to diligently move forward with its Astoria Replacement Project. NRG Berrians, through an affiliate, filed a compliance plan pursuant to the Peaker Rule stating that the existing generation at the plant would be retired in May 2023 and would be replaced by the Astoria Project. The NYISO approved the updating of the Astoria facility's generating technology in April 2020 and an application was filed with DEC seeking to modify its existing permits. In June 2020, NRG Berrians, the NYISO and Con Edison executed a Large Generator Interconnection Agreement for the Astoria Project, which was accepted by the Federal Energy Regulatory Commission (FERC) on August 14, 2020. NRG Berrians states that it has already completed the above-ground demolition of the seven retired peaking units at the facility and in August 2020 executed a turbine supply agreement and contractual services agreement with its turbine supplier. NRG Berrians states that it is waiting for the DEC to issue a Notice of Complete Application and draft permits for the Astoria Project and that construction is currently scheduled to commence in July 2021 with an expected commercial operation date of June 2023.

Sierra Club

On March 2, 2021, Sierra Club filed comments supporting Con Edison's petition. Sierra Club argues that the TRACE projects are the optimal solution to the need for more supply in the effected TLAs in that they will ensure a continuous supply of electricity while allowing for the retirement of existing polluting peaker plants, and eliminate the need for more than a gigawatt of new peaking capacity, which

will help the State achieve the goals of the CLCPA. Sierra Club notes that the TRACE projects will allow for the transmission of renewable energy from upstate and offshore into New York City, and allow for the electrification of buildings and vehicles. Sierra Club also advocates for the rejection of the Astoria Project.¹⁰

UIU

On March 22, 2021, UIU filed comments largely opposing Con Edison's petition. UIU's main objection is that Con Edison has failed to adequately demonstrate the need for the TRACE projects and that the projects are the most cost-effective means of addressing that need.

UIU cites the Commission's work pursuant to the Act, which required the Commission to work with other entities to identify transmission system upgrades needed to meet the goals of the CLCPA as support of its argument that Con Edison's petition is insufficient for the Commission to determine whether the TRACE projects are in the public interest. UIU asks the Commission to question whether Con Edison's proposal is the most cost-effective option, whether it is consistent with the Commission's work under the Act, and how to mitigate the financial risk for ratepayers.

UIU argues that the petition fails to provide evidence that the TRACE projects qualify as transmission projects under the standards established under the Act because, based on analysis carried out under the Act, the proposed projects will not have significant CLCPA benefits until 2030. UIU argues that if Con Edison wishes to propose these projects in the future, Con Edison should provide additional analysis pursuant to the

¹⁰ The Astoria Project is not the subject of this proceeding and its approval or rejection is not addressed in this Order.

Act. UIU also notes that Con Edison's primary motivation is new regulations on peaker generators, not the CLCPA.

UIU also argues that Con Edison has not demonstrated that the three proposals are cost-effective means of meeting the reliability needs, noting that the increased capacity is 300MW greater than the identified need. UIU argues that Con Edison does not provide sufficient justification for the excess capacity. Con Edison, UIU states, has changed its load forecasts since the projected needs was first identified, and urges the Commission to determine if reduced load demands might remove the need for part of the projects. UIU argues for the Commission to reject the Gowanus to Greenwood Project and the Goethals to Fox Hills Project as unjustified, and that, if the Rainey to Corona Project is approved, its completion may provide insights on the other two projects.

UIU also argues against the proposed halting mechanism because it shifts financial risks to ratepayers and suggests that the Commission impose a capital cost cap, or downward only reconciliation, on any approved projects to avoid burdening ratepayers.

NYC

On March 23, 2021, NYC filed comments supporting Con Edison's proposal in principle but expressing concerns about the details of the petition. NYC supports increasing the reliability and resilience of the grid and increasing the availability of green energy. NYC states that, while the projects will address local supply constrictions, Con Edison does not adequately demonstrate that the projects will definitely support the electrification of buildings and vehicles.

NYC specifically objects to Con Edison's request for pre-approval of cost recovery for the projects. NYC argues that

this is contrary to Commission practice, and that Con Edison has not provided a compelling argument for deviating from this practice. NYC states that Con Edison's arguments for approval are conclusory and lacking in analysis, as was its consideration of non-wire alternatives, noting that Con Edison failed to consider whether a combination of possible solutions, such as energy efficiency, storage and distributed energy resources, would be a more cost-effective approach.

NYC also argues that Con Edison has not demonstrated that the projects are a proportional response to the current need. Noting that the need in the affected areas lasts for hours or days a year, NYC questions whether the projected cost of \$800 million is cost-effective and calls for more analysis.

Addressing the proposal for pre-approval, NYC argues that the projects are not sufficiently developed for Commission consideration, noting that Con Edison characterizes the projects as being in the "conceptual state of design" and states actual costs are not known. Given this lack of certainty, NYC argues that the Commission should reject the request. NYC notes that the standard practice is for utilities to finance necessary capital projects and, when the projects are placed into service, receive a return on its prudently incurred investment.

NYC opposes Con Edison's proposed halting mechanism which allows recovery of costs even if the Commission later determines that one or more of the projects are not needed. NYC argues that this would shift the risk of imprudent investment to ratepayers rather than shareholders and insulate Con Edison from all potential consequences.

DISCUSSION AND CONCLUSION

In the petition, the Commission is asked to approve cost recovery of the TRACE projects as they are necessary to

ensure reliable service, authorize recovery of the carrying costs of the projects through a surcharge once they are placed into service and until such costs are reflected in base rates, to authorize including the costs of the TRACE projects in the CLCPA cost tracker,¹¹ and authorize the recovery of related expenses if any or all of the projects are later determined to be unnecessary by the Commission.

Turning to the first issue, it is clear that New York State is in the middle of a fundamental change in the generation and delivery of electricity. Priority has shifted to ensuring renewable, clean sources are integrated into the grid while polluting sources are being phased out. With such changes, it is expected that additions and modifications to the utilities' transmission infrastructure will be needed to accommodate the shifting sources of electricity, and flexible methods for recovering the costs of such additions will need to be relied upon.

As noted by NYC in its comments, conventionally a utility identifies a capital need, finances and constructs a solution, and, if the project was not included in the budget during the preceding rate case, begins to receive a return on that investment when its rates are next set. In addition, the Commission does not generally approve utilities' capital projects before they are commenced, since it is the Commission's role to regulate, rather than supervise, utility activity. In the case of some multi-year rate plans, the Commission has authorized charges that allow utilities to begin recovery of specifically identified capital projects once they are completed and placed into service. In these cases, the included projects

¹¹ In this Order, the Commission does not decide the appropriateness of including the TRACE projects costs in the CLCPA cost tracker as it is too soon to make that decision.

are fully developed, and the resulting cost recovery does not begin until the costs have been confirmed by Department of Public Service Staff (Staff).

The Company states that it has investigated alternative solutions to the proposed TRACE projects, and Company continues to evaluate opportunities for Non-Wires Solutions (NWS) and bulk energy storage to meet future load relief needs, however, the magnitude of the needs identified in the Astoria East/Corona 138 kV TLA and Greenwood/Fox Hills 138 kV TLA is such that Non-Wires Solutions cannot feasibly solve such needs. The Company further states that relying on alternative approaches of this scale to satisfy the reliability needs with no operational back-stop solution would unacceptably threaten the Company's ability to deliver reliable power to a significant number of its customers. Con Edison claims that the TRACE projects are the most efficient and cost-effective solutions to the local system reliability needs, while also accommodating future load growth given toward increased electrification and clean energy.

In addition, Con Edison stated in an IR response to NYC (NYC IR Set 1, question 4) that there are limited possible traditional utility infrastructure solutions to a transmission load area issue. Traditional alternatives to the projects include: (1) building a new or expanding an existing transmission substation, (2) establishing one or more new area substation(s), and (3) transferring one or more networks to the new area substation(s). These alternatives were determined by the Company to be cost prohibitive. Furthermore, regarding a cost-benefit analysis, in an IR response to NYC (NYC IR Set 1, question 5) Con Edison stated that the Company performs a cost-benefit analysis to identify viable non-transmission alternative

solutions and that, as it stated in its petition, non-wires solutions were not feasible.

The question remaining is whether the Commission should depart from its policies concerning capital project approvals. This proceeding presents unique circumstances that justify a departure from established practice. As noted in Con Edison's petition, the need for the TRACE projects is immediately driven by the likely closure or reduced operation of peaker plants due to the DEC regulations. Based on the current set of facts and reasonable assumptions, there is an immediate need for additional transmission capacity in the affected TLAs. Con Edison, to fulfill its obligation to provide safe and reliable service, must therefore commence design and construction of the TRACE projects. At the same time, however, the Commission recognizes that the regulating agency - DEC in this case - may ultimately authorize one or more of the subject peaker plants to continue operation during the Ozone Season Stop, and that the timing of such a DEC determination is at this point unknown. Should DEC take such action, the reliability need justifying a TRACE project(s) may disappear and Con Edison may be left with a partially completed project that is no longer necessary to provide reliable service, and recovery for which would be uncertain.

According to the Company, the TRACE projects are the most efficient and cost-effective solutions to the local system reliability needs, while also accommodating future load growth given toward increased electrification and clean energy. The Commission recognizes Con Edison's need for confirmation that the cost recovery of the Trace projects is approved. In this Order, the Commission affirms that the TRACE projects, as detailed by the Company in its petition, are necessary to the continued provision of safe and adequate electric service for

Con Edison's customers, and they will potentially further the goals of the CLCPA.¹²

Moving on to the Company's requests regarding recovery of TRACE project costs, Con Edison requests that if any of the TRACE projects are completed and placed in service before its next rate case, it be allowed to surcharge its ratepayers to begin recovering the project's carrying costs (including any O&M costs).

In approving Con Edison's existing rate plan, the Commission acknowledged that projects (and corresponding costs) needed to maintain reliability following the unavailability of certain generation units that are unable or unwilling to satisfy the new air emission regulations of the DEC were not known at the time of the rate plan and permitted the Company to seek recovery of the incremental costs associated with such investments. Since the TRACE projects will benefit all Con Edison delivery customers, the Commission finds that the recovery of the associated carrying costs, until base rates are reset, shall be through the existing Monthly Adjustment Clause (MAC) mechanism under the Company's Schedule for Electricity Service, P.S.C. No. 10 - Electricity (Con Edison delivery schedule) and the Other Charges and Adjustments mechanism under the Company's Schedule for PASNY Delivery Service, P.S.C. No. 12 - Electricity (NYPA delivery schedule). The allocation of such carrying costs between Con Edison delivery customers and the NYPA delivery customers, shall be performed on a pro-rata basis

¹² In addition to reliability concerns, Con Edison justifies the TRACE projects by arguing that they satisfy the CLCPA's goals by potentially contributing to the introduction of upstate and offshore renewable energy to Con Edison's service territory and allow for the retirement of fossil fuel powered generators. At this time, the Commission declines to address this asserted justification for the projects.

based on an appropriate transmission allocator. Therefore, Con Edison is directed to file modifications to its P.S.C. No. 10 - Electricity and P.S.C. No. 12 - Electricity tariffs to enable cost recovery through the MAC and the Other Charges and Adjustments provisions within 30 days of the issuance of this Order.

In the event that the projects go into service prior to a new rate plan going into effect, Con Edison shall make a filing of the costs it proposes to recover through the MAC and Other Charges and Adjustments mechanisms 60 days prior to commencing cost recovery. The filing shall include associated workpapers that contain project cost details. The amount of the project costs net of associated (i) retirements, (ii) accumulated deferred income taxes (ADIT), and (iii) accumulated depreciation reserve, i.e., the net rate base (NRB), will constitute the incremental rate base investment subject to the surcharge. The amount to be collected shall be determined as follows: $NRB * \text{Allowed Pre-tax Rate of Return} + \text{depreciation expense associated with net additions} + \text{preventative maintenance related O\&M expenses directly resulting from the capital projects}$. The total amount of costs to be eligible for recovery shall not exceed the preliminary cost estimate for each project included in the Company's petition in Exhibits A, B and C. As is typically done, in the Company's next rate filing, TRACE projects costs will be reviewed prior to inclusion in rate base. Any previously surcharged collections will be subject to customer reimbursement based on the Commission's determination.

Regarding the proposed halting mechanism, it is rejected and, should the Commission determine that any of the TRACE projects should be halted, cost recovery of such projects will be addressed at that time.

NRG Berrians argues that its Astoria Replacement Project, which is designed to replace an existing gas fired generator, will resolve the lack of sufficient transmission capacity in the Astoria East/Corona 138 kV TLA by providing a power source within that TLA and is therefore an alternative to the Rainey to Corona Project. NRG Berrians states that the new generator will reduce air pollution by 99% of the current plant and that its reliable gas generator will facilitate the introduction of intermittent renewable sources due to its highly flexible operating characteristics. While the Commission appreciates NRG Berrians' efforts, and recognizes the desirability of a privately financed solution, the repowering of its peaker plant is dependent on obtaining permits from other regulatory agencies and the required permits may not be issued or issued in time to avoid commencement of transmission solutions prior to 2023. Ultimately, the burden to maintain safe and reliable service lies with Con Edison, and the Company's choice of solution should be afforded some respect. Sierra Club argues that the Astoria Replacement Project is not a suitable alternative to the TRACE projects, because of its continued use of fossil fuels.

NYC generally supports the TRACE projects but objects to Con Edison's proposed surcharge and halting mechanism, which it describes as deviations from established Commission practices. NYC argues that while it is possible that the TRACE projects may allow for greater delivery from renewable sources, it is not certain. NYC also argues that the Company has not sufficiently considered alternatives to the TRACE projects, specifically failing to consider combinations of alternatives that might meet Con Edison's needs and notes that the costs of the TRACE Projects are not actually known. NYC urges the Commission not to pre-approve any project that was not

adequately vetted as being the best option. Another argument presented by NYC is that Con Edison has not considered the number of days that the deficiency is expected in 2025 or 2030, and that the Company acknowledged that the need that may occur only one day a year. NYC also alleges that the proposed halting mechanism is contrary to Commission precedent because utilities may only recover the cost of projects that are placed into service. NYC argues that if the Commission approves any of the Company's petition, limits should be placed on the amount of cost recovery that is allowed.

While the Commission respects NYC's concern over the magnitude of the TRACE projects, and the method of recovery, the magnitude of the endeavor New York is undertaking to reduce greenhouse gases justifies the steps the Commission authorizes in this Order. As noted above, the constraints and uncertainty Con Edison is facing are largely the result of the State's actions to improve the environment. It is therefore reasonable that the Commission, in this unique situation, provide Con Edison with some certainty as it works to meet its obligations.

Regarding the unknown cost of the projects, which was raised in multiple comments, the Commission notes that a full review of the projects' construction costs will take place in Con Edison's next rate proceeding, ensuring that ratepayers are not improperly burdened. Also, the NYISO found that the Gowanus to Greenwood project may be a required System Deliverability Upgrade if certain projects that entered Class Year 2019 accept their cost allocation. If this occurs, the project cost responsibility may fall to the interconnecting developers and if so, Con Edison shall refund costs incurred by its customers for that project.

UIU argues that Con Edison has not adequately demonstrated that the TRACE projects are the most cost-effective

solution or that the projects will qualify for statewide recovery under the CLCPA. UIU states that the projects are not commensurate with the load restrictions being addressed and that there is insufficient evidence of how much benefit they will provide for electrification in the TLAs. UIU also argues that the latter two projects should be rejected because they will not be needed before 2025, which allows for greater review and consideration.

As stated above, the Commission considers the TRACE projects to be necessary. While it is true that there is uncertainty regarding the ultimate demand the Company will face in the future, this is not a reason not to act now. In authorizing a surcharge to recover carrying costs, the Commission is not providing the utility with a blank check. As stated above, a full review of the completed projects will take place before they are incorporated into rate base, which will protect ratepayers. Regarding the questionable need of the later projects, the Commission notes that Con Edison is aware of possible changing needs, as demonstrated by its desire for the halting mechanism, and shall not pursue projects that are not needed at the time of construction. Nothing the Commission authorizes in this Order insulates Con Edison from the prudence requirements for utility action, and the Commission is free in the future to disallow any improper actions or charges.

The Commission concludes that Con Edison's current and future demand restrictions, and the anticipated reliability needs, combined with regulatory uncertainty and State policy goals, justify the extraordinary relief Con Edison requests. The Commission therefore approves the cost recovery of the TRACE projects and authorizes surcharge recovery of the projects' carrying costs after the project(s) are placed into service prior to the establishment of new rates. The Commission

concludes that these steps will ensure that Con Edison is able to take the bold steps needed to realize the goals of the CLCPA and DEC regulations.

The Commission orders:

1. Cost recovery of the three Transmission Reliability and Clean Energy projects identified in Consolidated Edison Company of New York, Inc.'s petition through the Monthly Adjustment Clause and Other Charges and Adjustments Clause is approved, subject to the terms and conditions identified in the body of this Order.

2. Consolidated Edison Company of New York, Inc. is directed to file compliance tariff revisions to its P.S.C. No. 10 - Electricity and P.S.C. No. 12 - Electricity tariffs to effectuate cost recovery of the Transmission Reliability and Clean Energy projects within 30 days of the issuance of this Order as identified in the body of this Order.

3. In the event that any of the Transmission Reliability and Clean Energy projects go into service prior to a new rate plan going into effect, Consolidated Edison Company of New York, Inc. shall make a filing of the costs it proposes to recover through the Monthly Adjustment Clause and the Other Charges and Adjustments mechanisms at least 60 days prior to commencing cost recovery. The filing shall include associated workpapers detailing project costs.

4. In the Secretary's sole discretion, the deadlines set forth in this Order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least three days prior to the affected deadline.

5. This proceeding is continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary