

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

- CASE 16-E-0060 - 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 16-G-0061 - 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 16-E-0196 - Tariff filing by Consolidated Edison Company of New York, Inc. to revise General Rule 20 Standby Service contained in its electric tariff schedules, P.S.C. Nos. 10 and 12

ORDER APPROVING ELECTRIC AND GAS RATE PLANS

Issued and Effective: January 25, 2017

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STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on January 24, 2017

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair  
Patricia L. Acampora  
Gregg C. Sayre  
Diane X. Burman, concurring

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ORDER APPROVING ELECTRIC AND GAS RATE PLANS

(Issued and Effective January 25, 2017)

BY THE COMMISSION:

INTRODUCTION

In this order, we approve a three-year electric rate plan and a three-year gas rate plan for Consolidated Edison Company of New York, Inc. (Con Edison or the Company). These rate plans are brought to us through a Joint Proposal that was developed to reflect the agreement of 22 parties representing diverse interests: Con Edison, trial staff of the Department of Public Service (Staff), Community Housing Improvement Program,

Consumer Power Advocates (CPA), New York Energy Consumers Council (NYECC), New York Power Authority (NYPA), Time Warner Cable Inc., Environmental Defense Fund, United States General Services Administration, Acadia Center, Real Estate Board of New York, City of New York (the City), Digital Energy Corp., E Cubed Company, LLC, Energy Concepts Engineering PC, Great Eastern Energy, Joint Supporters, Pace Energy and Climate Center, Northeast Clean Heat and Power Initiative, Association for Energy Affordability, Metropolitan Transportation Authority, Natural Resources Defense Council (the signatory parties). Several signatory parties have made specific recommendations that differ from the resolutions expressed in the Joint Proposal.<sup>1</sup> No party has offered wholesale opposition to the Joint Proposal, but four parties -- the Utility Intervention Unit of the Department of State, New York Independent Contractors Alliance, Astoria Generating Company, L.P. and RiverBay Corporation -- oppose certain portions of the Joint Proposal through testimony and/or Statements in Opposition.

These rate plans advance a number of important policy initiatives. This is the first electric Joint Proposal executed after the Commission adopted the REV Track Two Order<sup>2</sup> and the electric rate plans include positive elements that further our efforts to move utilities toward a cleaner, more distributed, customer-centric model. These include incentives and programs to advance alternatives to traditional utility wire investments,

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<sup>1</sup> Of the 22 signatory parties, 12 parties support all provisions in the Joint Proposal; seven parties largely support the Joint Proposal, but expressed opposition to limited provisions; and three parties provided partial support with no specific opposition.

<sup>2</sup> REV Track Two Order, Case 14-M-0101, Reforming the Energy Vision, Order Adopting a Ratemaking and Utility Revenue Model Policy Framework (May 19, 2016) (REV Track Two Order).

provide better distributed energy resource (DER) utilization, improve distributed generation (DG) interconnections; reduce energy usage intensity, integrate system peak reduction, energy efficiency and electric vehicle efforts, implement advanced metering, and adjust rate design. On the gas side, the gas rate plan advances improvements in gas safety, leak detection and repair, and leak prone pipe remediation (including the introduction of positive incentives for many of these initiatives), as well as improvements to first responder communications and workforce development. For both electric and gas, improvements are made to ensure the most vulnerable customers are protected consistent with our Low Income Order.

Given the benefits of these rate plans and the support given them by so many parties, we adopt the terms of the Joint Proposal without modification.

#### OVERVIEW OF KEY TERMS

Electric rate plan. Con Edison electric customers have not experienced a base rate increase in three years. For a three-year electric rate plan, the Joint Proposal recommends that the Company's electric delivery service revenue requirement be increased by \$194.55 million in Rate Year One.<sup>3</sup> The initial revenue requirement increase provided through this recommendation is driven in substantial part by a lower forecast of sales, increased property taxes, increased depreciation

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<sup>3</sup> Under the proposed rate plan and as described more completely below, Rate Year One is the 12-month period from January 1, 2017 through December 31, 2017. Rate Year Two will begin on January 1, 2018 and end on December 31, 2018, and Rate Year Three will begin and end on January 1, 2019 and December 31, 2019.

expenses, and increased plant in service.<sup>4</sup> The increased revenue requirement resulting from these factors is partially offset by decreases in pension and Other Post Retirement Benefits (OPEB) expenses. The rate increases to provide this revenue increase will occur at the same time that a \$47.78 million temporary rate credit expires.<sup>5</sup> The temporary rate credit was established to mitigate rate increases that were approved in the Company's 2014 rate plan.

The Rate Year One increase would be followed by a \$155.32 million delivery revenue increase in Rate Year Two and by a \$155.21 million delivery revenue increase in Rate Year Three. The Joint Proposal makes the further recommendation that these three increases and the impact of the expiring temporary rate credit should be levelized such that the rate increase in each year will provide a revenue increase of \$199.03 million. As discussed below, the Rate Year One increase recommended in the Joint Proposal is significantly below the \$482 million Rate Year One revenue increase sought by the Company in its initial filing.<sup>6</sup> As a three year proposal, the recommended rate plan offers both customers and the Company a measure of

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<sup>4</sup> Staff Statement in Support of the Joint Proposal (Staff Statement in Support) at 12 and Appendix A.

<sup>5</sup> The credit, originally due to expire December 31, 2016, was further extended to continue until our action in this case. Case 13-E-0030 et al., Con Edison Electric Rates, Order Approving Tariff Amendments (issued December 21, 2016).

<sup>6</sup> In large part, the difference between the Company's filed revenue requirement for electric (and for gas) and the revenue requirement reflected in the Joint Proposal is that the Company elected to base its revenue requirement calculations on a return on common equity of 9.75%. The Joint Proposal, however, is based on the more recent agreement by the Company, Staff and other signatory parties to use an ROE of 9.0% for this purpose.

predictability, and, as a plan for levelized rate increases, the recommendation offers some protection from rate shocks in the first year of the rate plan and over the three-year term of the rate plan.<sup>7</sup>

Gas rate plan. Con Edison gas customers have not experienced a base rate increase in three years. For the three-year gas rate plan, the Joint Proposal recommends that the Company's gas delivery service revenue requirement be decreased by \$5.37 million in Rate Year One. Revenue requirement drivers for the gas rate plan are increased operations and maintenance expense, increased depreciation expense, increased expense for gas leak inspection and repairs, and increased gas infrastructure investment.<sup>8</sup> The impact of these factors is to raise the gas revenue requirement. This impact is more than offset by increased gas sales, a change to a lower allowed Return on Equity (ROE), and reduced amortizations of various regulatory deferrals.

The Joint Proposal notes that, similar to the electric delivery rates for Rate Year One, the gas delivery rates are already set to provide the revenues currently being offset by the temporary rate credit, which is \$40.86 million for gas. As in the electric rate plan, the expiration of the credit will occur at the same time as the delivery rate reduction for Rate Year One. Thus, the net result experienced by customers is an increase of \$35.49 million.

In the recommended gas rate plan, the Rate Year One increases would be followed by a \$92.34 million gas delivery revenue increase in Rate Year Two and an \$89.45 million increase in Rate Year Three. As discussed below, the Joint Proposal's

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<sup>7</sup> See Joint Proposal Sections B.1, D.1 and related appendices.

<sup>8</sup> Id., p. 14 and Appendix B.

Rate Year One increase is significantly below the \$154 million Rate Year One increase sought by Con Edison in its initial filing.<sup>9</sup>

Implementation of REV Track Two Order. We adopted the REV Track Two Order in May 2016. The Joint Proposal advances several initiatives discussed in that order, such as the encouragement of DER interconnection, enhanced energy efficiency opportunities, better overall system utilization, consideration of alternatives to traditional utility infrastructure investments, customer awareness and engagement, and ratemaking related thereto.

The Commission's REV Track Two Order indicated that, if multi-year rate plans include Net Plant Reconciliation mechanisms, the plans should be designed to remove financial disincentives to pursue DER alternatives in lieu of capital expenditures on infrastructure projects. The Joint Proposal recognizes that Non-Wire Alternatives (NWAs) can provide benefits to customers and establishes an NWA mechanism consistent with the intent of the Track Two Order. This mechanism will allow the Company to displace planned capital expenditures with cost effective NWA projects. Specifically, the Joint Proposal provides for recovery of the difference in costs between an NWA implemented during the Electric Rate Plan and allowances in rates associated with the displaced project. Also, for NWA projects identified during the term of the rate plan, the Joint Proposal implements clawback reform consistent with the guidance we provided in the Track Two Order. NWA projects pursued during the term of the rate plan will comply with the requirements, and qualify for any incentives, that are approved by the Commission for the existing Con Edison Targeted

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<sup>9</sup> See Joint Proposal Sections B.21, D.2 and related appendices.

Demand Management (TDM) program. Accordingly, the Joint Proposal will allow ratepayers to benefit from the Company's continuous efforts to seek cost-effective alternatives to traditional electric infrastructure investment.

Standby Rate Pilot/Reliability Credit. The Joint Proposal recommends the implementation of a standby rate pilot, consisting of two options: 1) an up-to-ten-year standby rate exemption or 2) a standby rate pilot to be developed through a collaborative process. The standby rate exemption option is intended to encourage development of efficient DERs in Con Edison's service territory. Under this option, efficient new or expanded Combined Heat and Power (CHP) facilities and new battery storage projects can qualify for a standby rate exemption for up to ten years. Existing standby customers that do not qualify for the standby rate exemption can participate in the standby rate pilot, through which various rate options will be tested, including, among other things, varying contract demand levels, locational and time-varying rates. Participants in the pilot will provide data regarding their hourly generation, fuel consumption and efficiency.

Finally, this order addresses certain aspects of standby rates, including the introduction, as directed by the Track Two Order, of a reliability credit to replace the performance credit that is currently in use. The Joint Proposal includes a one-year phase-in of the measurement period applicable to the Reliability Credit, allowing customers time to adjust to the requirements of the Reliability Credit.

Implementation of Earning Adjustment Mechanisms. In accordance with our Track Two Order, the Joint Proposal contains provisions designed to further REV policies by providing the utility with opportunities to obtain enhanced earnings based on performance and outcomes. These opportunities are called

Earning Adjustment Mechanisms (EAMs). The parties propose that we create two program achievement-based EAMs for meeting energy efficiency and system peak reduction goals, two outcome-based EAMs for reducing energy intensity and increasing DER utilization, an EAM for the Company's DG-Interconnection program, and an EAM based on AMI customer awareness. In addition, a process is set up to further address an outcome-based EAM related to customer load factors.<sup>10</sup>

Acceleration of Leak Prone Pipe Replacement Program.

The Joint Proposal contains numerous provisions to advance our commitment to gas safety and methane emission reduction. In the Joint Proposal, it is recommended that the gas performance mechanism annual targets for pipe replacement should be increased from 70 miles per year to 80, 85 and 90 miles per year in Rate Years One, Two and Three, respectively. The Joint Proposal also recommends that a positive incentive should be provided for the replacement of Leak Prone Pipe in excess of these targets. In addition, the Joint Proposal includes a recommendation for the establishment of a new mechanism for the recovery by the Company of certain leak backlog reduction costs, as discussed below.<sup>11</sup>

Implementation of Advanced Metering Infrastructure (AMI). The Joint Proposal provides for the next step in the implementation of the AMI Program in the Con Edison service territory, pursuant to the directions we provided in our recent AMI Order.<sup>12</sup> In that Order, Con Edison was directed to develop a

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<sup>10</sup> See Sections E.16, J.1.d, L.12, M.3 and related appendices.

<sup>11</sup> The new mechanism is identified as a Safety and Reliability Surcharge Mechanism (SRSM).

<sup>12</sup> Case 13-E-0030 et al., Con Edison Electric Rates, Order Approving Advanced Metering Infrastructure Business Plan Subject to Conditions (March 17, 2016) (AMI Order).

set of metrics for AMI that can be used to monitor the success of the AMI program. The Joint Proposal provides for AMI metrics in the following categories: customer engagement, billing, outage management, system operation and environmental benefits and deployment. In addition, Con Edison has the opportunity to earn an EAM if the Company achieves or exceeds targeted customer awareness levels.<sup>13</sup> Finally, the Joint Proposal provides for symmetrical reconciliation of rate case allowances for the AMI project with actual plant in service to allow for timing variations.

Enhancement of the Low Income Program. In May 2016, during the pendency of this case, the Commission adopted the Low Income Order.<sup>14</sup> A statewide policy was adopted in that order to define the energy burden for households in New York at or below 6% of household income. The Low Income Order also requires utilities to expand their program enrollments to reach more vulnerable customers and establishes a default process of setting rate discount levels that both enhances current discounts and also varies levels based on household need.

The Joint Proposal's recommendations contain a number of initiatives to address the improvements we sought in the Low Income Order including, support of computer matching programs to identify potential program participants and the addition of Medicaid to the list of programs whose participants receive discounted electric service. The Joint Proposal addresses the need to enhance the discounts available to qualifying customers. In these cases, the rate plans are estimated to provide \$54.7

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<sup>13</sup> See Sections B.1.a(i), B.2.b(ii)(3), D.3, E.16, F.1.c, M.1, M.2, and M.3 and related appendices.

<sup>14</sup> Case 14-M-0565, Programs to Address Energy Affordability for Low Income Utility Customers, Order Adopting Low Income Program Modifications and Directing Utility Filings (May 20, 2016) (Low Income Order).

million annually for discounts to electric customers and \$10.9 million annually for gas customer discounts. The programs continue a program for the waiver of most reconnection fees for low income customers. In addition to the low income program, the Joint Proposal also provides a positive revenue adjustment to the Company for achieving targets associated with uncollectible debt write-offs and residential service terminations, an initiative that may be helpful to customers generally.<sup>15</sup>

#### BACKGROUND OF THE PROCEEDING

Con Edison's most recent electric and gas rate plans were adopted in a rate order issued in February 2014.<sup>16</sup> In that order, we approved a two-year plan for electric delivery service rates and a three-year plan for gas delivery service rates. In 2015, the parties sought to formulate recommendations by which the rate plan for electric delivery service could be extended by one year. A Joint Proposal with recommendations for this extension was developed by the parties and, with certain modifications, its terms were adopted through a rate order issued June 19, 2015.<sup>17</sup> As a consequence, the current rate plans

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<sup>15</sup> These recommendations are discussed in Sections B.1.b, L.12, and N.1 through N.8 and related appendices.

<sup>16</sup> Case 13-E-0030, et al., Consolidated Edison of New York, Inc. Electric and Gas Rates, Order Approving Electric, Gas and Steam Rate Plans in Accord with Joint Proposal (February 21, 2014) (2014 Electric Rate Plan or 2014 Rate Order). The 2014 Rate Order adopted, with certain modifications, a joint proposal dated December 31, 2013 (2013 Joint Proposal).

<sup>17</sup> Case 13-E-0030, et al., Consolidated Edison of New York, Inc. Electric and Gas Rates, Order Adopting Terms of Joint Proposal to Extend Electric Rate Plan (June 19, 2015) (2015 Electric Rate Plan or 2015 Electric Rate Order). The 2015 Electric Rate Order adopted, with certain modifications, a Joint Proposal dated April 20, 2015.

for electric and gas delivery services each expire on the same date - December 31, 2016.

On January 29, 2016, Con Edison filed tariff leaves and testimony by which it proposed and sought to justify increases to its electric and gas delivery revenue requirements for a rate year beginning January 1, 2017.<sup>18</sup> In the filing, Con Edison sought an increase of \$482 million (or 9.5%) in annual electric delivery revenues,<sup>19</sup> and an increase of \$154 million (or 13.4%) in annual gas delivery revenues.<sup>20</sup>

A technical and procedural conference was held on March 2, 2016, to identify interested parties and major issues and to establish a procedural schedule. By ruling dated March 11, 2016 (March 11 Ruling), a case schedule was adopted calling for Staff and intervenor direct testimony on or before May 27, 2016, rebuttal testimony on or before June 17, 2016, and an evidentiary hearing to begin on July 20, 2016.

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<sup>18</sup> The tariff leaves that accompanied the Company's January 2016 Filing were provided with an effective date of February 28, 2016. On February 10, 2016, the Secretary issued a Notice of Suspension of Effective Date of Major Rate Changes and Initiation of Proceedings which postponed the effective date of these tariff leaves until June 26, 2016. On June 7, 2016, the Secretary issued a Notice of Further Suspension of Effective Date of Major Rate Changes which further postponed the effective date of the tariff leaves to implement the rate increases sought by Con Edison in its initial filing from June 26, 2016 to December 26, 2016. See below at p. 13 and n. 26.

<sup>19</sup> The requested increase in electric delivery revenues would have resulted, for the average 600 kWh/month residential customer, in an increase on the monthly electric delivery bill of \$8.39, or an annual increase of \$100.68.

<sup>20</sup> The requested increase in gas delivery revenues would have resulted, for the typical residential heating customer using approximately 1200 therms annually, in a total annual delivery bill increase of approximately \$132.

On March 25, 2016, the Company filed its preliminary update, which decreased its proposed electric revenue requirement from \$482 million to \$479.6 million (approximately \$2.4 million). This update increased the proposed gas revenue requirement from \$154 million to \$158.9 million (approximately \$4.9 million).

As required by the March 11 Ruling, direct and rebuttal testimony in these cases was filed on or about May 27, 2016 and June 17, 2016 respectively.<sup>21</sup> Staff's pre-filed testimony and exhibits proposed a revenue increase for Con Edison of \$45.0 million for electric and a revenue decrease of \$25.2 million for gas. On or about June 17, 2016, Con Edison provided a further update to its revenue increase requests. It updated its electric revenue requirement proposal to one seeking \$498.2 million (an increase of approximately \$18.6 million from

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<sup>21</sup> The following parties filed testimony in this case pursuant to the March 11 Ruling:

Con Edison  
Staff  
Utility Intervention Unit (UIU), Department of  
State  
City of New York  
Public Utility Law Project  
Community Housing Improvement Program  
Consumer Power Advocates  
New York Energy Consumers Council  
County of Westchester  
Metropolitan Transportation Authority  
New York Power Authority  
Solar City Corporation  
Time Warner Cable Inc.  
Utility Workers of America, AFL-CIO Local 1-2  
Environmental Defense Fund  
Pace Energy and Climate Center  
Energy Concepts Engineering PC  
Great Eastern Energy

its March 25, 2016 preliminary update). Con Edison updated its gas revenue requirement request to \$124.6 million (a decrease of approximately \$34.3 million from the preliminary update gas filing.)<sup>22</sup>

After the filing of rebuttal testimony and the Company's June 17, 2016 update, Con Edison, Staff and other parties identified an opportunity to resolve these cases through negotiation and settlement. Pursuant to 16 NYCRR § 3.9, the Company filed a Notice of Impending Settlement Negotiations on June 10, 2016. The first meeting to discuss settlement occurred on June 23, 2016. Thereafter, the parties continued to negotiate and ultimately were able to agree upon a proposal which, if adopted, would resolve the cases without further litigation. The Joint Proposal, in its final form, was filed on September 19, 2016.<sup>23</sup>

On two occasions while the Joint Proposal was under development, it became clear that the parties needed more time to develop their recommendations. Accordingly, the Company advised the Secretary on July 8, 2016 and on August 8, 2016 that it would agree to a first and then a second one-month extension of the suspension period subject to a "make whole" provision that "would keep the Company and its customers in the same position as they would have been absent the extension."<sup>24</sup> As a result of these extensions, the suspension period applicable to

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<sup>22</sup> A summary of the initial litigation positions for the parties is appended to this Order at Attachment B.

<sup>23</sup> A copy of the Joint Proposal, together with its appendices, is appended to this Order as Attachment A.

<sup>24</sup> In this context, a "make whole" provision allows the Company to recover the revenue that would have been collected had new Rate Year One rates been in effect on January 1, 2017, over the ten-month period of February 1, 2017 through December 31, 2017.

Con Edison's proposed electric and gas tariffs was extended to January 26, 2016.<sup>25</sup>

On September 28, 2016, following a September 21, 2016 Procedural Conference, a schedule was adopted to consider the Joint Proposal. Statements, testimony and exhibits in support or opposition to the Joint Proposal were filed on October 13, 2016, reply statements and rebuttal testimony and exhibits were filed on October 21, 2016 and evidentiary hearings began on November 2, 2016 and were completed on November 3, 2016 in the Commission offices at 90 Church Street in New York City. At the conclusion of these hearings, the parties were directed to file any post-hearing submissions on or before November 14, later extended to November 16, 2016.

PUBLIC COMMENTS AND NOTICE OF PROPOSED RULEMAKING

The Company published on February 5, 12, 19 and 26, 2016 in The New York Post notices describing its rate increase requests and the new gas and electric rates that would result if the requests were adopted by the Commission. In addition, pursuant to the State Administrative Procedure Act (SAPA) §202(1), three Notices of Proposed Rulemaking (16-E-0060SP1; 16-E-0061SP1; 16-E-0196SP1) were published in the State Register. These Notices invited comments on the proposed rate increases from the public by June 11, 2016.

The Department of Public Service conducted a public statement hearing in Manhattan on June 21, 2016 and another in Yonkers on June 22, 2016 and received a total of nine public comments. All of the speakers opposed the recommendations to

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<sup>25</sup> The first one-month extension was approved through our Order Approving Extension of Maximum Suspension Period of Major Rate Filings (issued November 22, 2016). With this order, we will set new electric and gas rates for Con Edison to begin on February 1. Accordingly, action on the second one-month extension is unnecessary.

increase the Con Edison rates. These commenters emphasized that many low and middle income Con Edison customers were already having difficulty paying their Con Edison bills and that an increase in rates would only make this problem more difficult. Some of these commenters also challenged the Company's proposed investment in Advanced Metering Infrastructure (AMI) in the absence of a better demonstration of the benefits to customers from this investment, objected to the Company's refusal to make Medicaid recipients eligible for the Company's low income rate program, opposed the Company's proposal to fund pipe replacement through a separate fund rather than through base rates, urged rejection of Con Edison's request for further "incentive" payment mechanisms, for recent changes in Con Edison's contracting practices, and opposed Con Edison's proposals to shift some costs in its electric system from electric to gas customers.

After the Joint Proposal was filed, a Commission Notice was issued establishing a further period for public comments on the Joint Proposal, to be filed by November 10, 2016.<sup>26</sup> In total, the Department received 1251 public comments in the period up to and including January 1, 2017.<sup>27</sup> The majority of these comments made virtually identical arguments against any increase in rates, noting that many New Yorkers, at present rates, are already struggling to pay their utility bills and objecting to the Company's plan to install AMI meters for

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<sup>26</sup> Notice Seeking Comments (September 28, 2016).

<sup>27</sup> Of these 1,251 comments, 1,216 were received through the internet in virtually identical messages sent between September 19 and October 19, 2016. The comment in these emails was that the requested rate relief was too great for many New Yorkers who, at present rates, are already struggling to pay their utility bills. The message text also questioned the Company's plan to install smart meters for every customer.

every customer. Other written comments opposed the Company's proposed rate increases for low- and middle-income customers, the size of the Con Edison capital plans, and certain Con Edison practices with respect to deferred payment agreements. The filed comments also included a petition opposing the Con Edison rate increases signed by approximately 240 customers. Assemblymember Shelley Mayer and City Councilmember Deborah Rose also commented in opposition to the proposed rate increases, citing the struggle many consumers have in paying their energy bills.

#### DISCUSSION

The Public Service Law (PSL) provides this Commission with broad supervisory jurisdiction over the utilities, such as Con Edison, that provide electric and gas services to customers in New York and over the actions taken by these utilities to provide such services. In general, the Commission seeks to ensure that the services provided to customers and the public will be safe and adequate and that the charges for those services are just and reasonable.<sup>28</sup> In assessing whether the rate plans proposed here meet this statutory standard, we will balance the interests of consumers who are or will be Con Edison's customers with the interests of Con Edison and its investors.<sup>29</sup>

Where a Joint Proposal is submitted for the Commission's consideration, we must determine if adoption of the proposal is in the public interest by applying the factors found

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<sup>28</sup> PSL § 65(1).

<sup>29</sup> Abrams v. Public Serv. Comm., 67 N.Y.2d 201, 212 (1986).

in our Settlement Guidelines.<sup>30</sup> These factors include (1) the appropriate balance between the protection of ratepayers, fairness to investors, and long term viability of the utility; (2) consistency with environmental, social, and economic policy, and (3) whether the proposed results are within the range of likely litigation outcomes.

Important provisions of the proposed rate plans are discussed in detail below, followed by an analysis of whether those terms, taken together, should be adopted as in the public interest.<sup>31</sup>

A. Term

The parties recommend in the Joint Proposal that the Commission adopt a three-year rate plan, which would begin on January 1, 2017 and end on December 30, 2019. As noted above, the Company agreed to extend the suspension period associated with its pending rate requests by one month. Consequently, the Company will implement the revenue recovery of the first year of the rate plans from this Order in the eleven month period beginning on or before February 1, 2017. There was no opposition to the recommendation to adopt a rate plan of this length or covering this time period. As discussed in more detail below, a multi-year rate plan provides certainty for both the customers and the Company. It is also consistent with the goals we discussed in the Track Two Order, as it provides the

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<sup>30</sup> Commission's "Procedural Guidelines for Settlements" at Cases 90-M-0225 and 92-M-0138 - Procedures for Settlement and Stipulation Agreements, Settlement Procedures, as filed in Case 11175, Opinion 92-2, dated March 24, 1992, at Appendix B.

<sup>31</sup> The discussion below is not an exhaustive analysis of all of the provisions of the Joint Proposal. Based on the record for these cases, this order adopts all the Joint Proposal provisions with the exception of those in Section P, identified below.

parties with an opportunity for more holistic, long-term planning.

B. Rates and Revenue Levels

1. Electric

The Company sought a Rate Year One electric service revenue increase of \$498.2 million. In making this request, the Company recognizes that the Commission's 2015 Electric Rate Order included a \$47.78 million temporary rate credit to effectively freeze rates in Rate Year 2016 (the twelve months ending December 31, 2016). With the expiration of this temporary rate credit, electric rates are set to provide revenue \$47.78 million higher, as previously approved. The Company's rate increase request is characterized as a \$498.2 million request but is, in effect, a request for approval of rates to provide an additional \$450.42 million in new revenue on top of the \$47.78 million in revenues already approved.

In response to the Company's revenue increase request, Staff undertook a robust investigation to assess the basis and reasonableness of the Company's request. As a result, Staff filed extensive testimony including numerous recommendations for adjustments to the associated revenue requirement. The sum total of these adjustments exceeded \$400 million. Based on its investigation, Staff recommended a limited increase in revenue requirement of \$45.0 million.

The Joint Proposal recommends that the Company be provided a Rate Year One electric delivery revenue increase of approximately \$242.33 million. This increase includes the expiration of the \$47.78 million temporary rate credit and a rate increase to provide additional revenue of \$194.55 million needed to meet forecasted increases in costs and expenses in providing electric delivery service. The proposed rate plan would provide delivery service revenue increases in each rate

year (and percentage increases in Con Edison's electric sales revenues) as follows:

| Rate Year One                  |                         |                               | Rate Year Two           | Rate Year Three          |
|--------------------------------|-------------------------|-------------------------------|-------------------------|--------------------------|
| Expiring Rate Year 2016 credit | Rate Year One increase  | Expiring credit plus increase | Rate Year Two increase  | Rate Year Three increase |
| \$47.78 million (0.6%)         | \$194.55 million (2.6%) | \$242.33 Million (3.2%)       | \$155.32 million (2.0%) | \$155.21 million (1.9%)  |

The signatory parties further recommend that these electric revenue increases be implemented on a levelized basis. With levelization, an electric delivery rate increase of \$199.034 million would be implemented in each rate year, equating to percentage increases of 2.6%, 2.5% and 2.5% in Rate Years One, Two and Three, respectively. Levelization offers some protection to customers from a higher rate increase in the first year by moderating the impacts over the three-year term.

These results are based upon the 9.0% ROE used to forecast the three-year revenue requirement. In adopting an 9.0% ROE, discussed in more detail below, we are aware that the allowance is consistent with authorized returns we have approved in several recent multi-year rate plans for similar gas and/or electric utilities, including the National Grid Gas Rate Cases

decided only a month ago.<sup>32</sup> Such an ROE level appropriately compensates the Company for the risks assumed in a three-year rate plan. At the same time, proceeding by way of a three year rate plan extends the period of predictability of revenue to the Company and costs to customers, allowing for better long-term planning by both.

The Joint Proposal also provides for the continuation of the Market Supply Charge ("MSC"), the Monthly Adjustment Charge ("MAC"), and the NYPA Other Charges and Adjustments ("OTH"), and the collection through these mechanisms of prudently incurred supply and supply-related costs, among other things. In addition, these mechanisms will be used in the new rate plan to recover:

- i. Incentives earned from Earnings Adjustment Mechanisms ("EAMs");
- ii. Electric Department share of the up to \$4 million to be provided for the Climate Change Vulnerability Study;

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<sup>32</sup> Cases 16-G-0058, et al., KeySpan Gas East Corporation - Rates, (December 16, 2016) (adopting 9.0% ROE in three-year rate plan) (2016 Keyspan Rate Case); Case 15-G-0382, St. Lawrence Gas Company, Inc. - Rates, Order Establishing Multi-Year Rate Plan (July 15, 2016) (adopting 9.0% ROE in three-year rate plan); Cases 15-E-0283, et al., New York State Electric & Gas Corp. - Rates, Order Approving Electric and Gas Rate Plans in Accord with Joint Proposal (June 15, 2016) (adopting 9.0% ROE in three-year rate plan); Cases 14-E-0493, et al., Orange and Rockland Utilities, Inc. - Electric and Gas Rates, Order Adopting Terms of Joint Proposal and Establishing Electric Rate Plan (October 16, 2015) (9.0% ROE for two-year electric plan and 9.0% ROE for three-year gas plan) and Cases 14-E-0318 and 14-G-0319, Central Hudson Gas & Electric Corporation - Electric and Gas Rates, Order Approving Rate Plan (June 17, 2015) (9% ROE for three-year rate plans). The 9.0% ROE value was also used to calculate rates for 2016 in the rate plan extension provided in the 2015 Electric Rate Order. 2015 Electric Rate Order at 6.

- iii. Up to \$600,000 to be provided for costs for a marginal cost study;
- iv. Costs and incentives related to the development of Non-Wires Alternatives ("NWA") projects;
- v. Payments for bill credits issued in the Reliability Credit program; and
- vi. Payments for bill credits issued under the Optional Bill Credit for Export-Only Buyback Customers program.

This provision of the Joint Proposal makes the existing MSC, MAC and OTH mechanisms available to the Company to recover costs that cannot be accurately forecasted and recovered in base rates. We find that the proposed modifications to the MSC, MAC and OTH mechanisms are appropriate for this purpose.

The terms of the Joint Proposal adopted here also provide for the continuation of the RDM mechanism, with certain technical modifications, unless and until changed by Commission order. Pursuant to these modifications, the costs of the Company's Electric Low Income Program will be reconciled through the RDM.

As noted above, the vast majority of comments received in these proceedings voiced concerns about any rate increase for Con Edison.<sup>33</sup> We are persuaded, nevertheless, that the record supports the need for an increase. Notably, no party other than Staff presented a case in support of an alternative revenue requirement or in support of any specific adjustments to the

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<sup>33</sup> See Joint Proposal, Appendix B.

revenue requirement forecast in the Joint Proposal.<sup>34</sup> The first-year revenue requirement increase recommended in the Joint Proposal of \$242.33 million represents a significant departure from the Company's Rate Year One revenue increase request of \$498.2 million.<sup>35</sup> Further, the recommended increase is an amount agreed among many parties and no doubt reflects the negotiations among these parties on many issues. We see no basis in the record to modify the result of that negotiation. Moreover, according to the Company, this revenue requirement increase, together with the remainder of the provisions recommended in the Joint Proposal, "provides the Company with funds needed to build, operate and maintain safe and adequate electric and gas systems."<sup>36</sup> Based on the foregoing, we approve the electric rate plan which is before us.

2. Gas

As previously indicated, the Company sought an annual gas service revenue increase of \$124.6 million. As with the electric rate plan, because of the expiration of a temporary rate credit at the end of the 2016 rate year, without further action by the Commission, the Company's revenues would rise by

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<sup>34</sup> One party, UIU, has asserted that the proposed rate increases are disproportionately assigned to the residential service classifications. See Statement of the Utility Intervention Unit on the Joint Proposal, p. 45. It did not, however, object to the total revenue requirements.

<sup>35</sup> The largest of the differences between the Company's proposal and the Joint Proposal is the reduction in rate of return used in the forecast of Rate Year One rates (a revenue requirement reduction of approximately \$138 million). Other large changes are a reduction in depreciation expense (approximately \$62 million) and Operations and Maintenance expense (approximately \$28 million).

<sup>36</sup> Con Edison Statement in Support of Electric and Gas Joint Proposal, p.2.

the amount of an expiring temporary credit, \$40.86 million, in the first rate year. The Company's proposed rates to provide its requested \$124.6 million included the increase in revenues resulting from expiration of the temporary credit and those needed to meet forecasted increases in costs and expenses from its gas business. Staff's testimony in response to the Company's initial filing recommended a revenue decrease of \$66.09 million that, when used to offset the expiration of the \$40.86 million temporary credit, would leave a net revenue decrease of \$25.23 million.<sup>37</sup>

The Joint Proposal's recommendation is that a decrease in revenues of \$5.4 million, netted against the increase in revenues of \$40.86 million from the expiration of the temporary rate credit, should be implemented in Rate Year One, for a net increase of \$35.5 million. For Rate Year Two and Rate Year Three, gas delivery revenues would increase by \$92.3 million and \$89.5 million, respectively. Thus, the delivery revenue changes proposed in the Joint Proposal (and the percentage changes in the Company's gas sales revenues they provide) in each rate year are as follows:

|                                | Rate Year One           |                               | Rate Year Two          | Rate Year Three          |
|--------------------------------|-------------------------|-------------------------------|------------------------|--------------------------|
| Expiring Rate Year 2016 credit | Rate Year One decrease  | Expiring credit plus increase | Rate Year Two increase | Rate Year Three increase |
| \$40.86 million (2.6%)         | \$ -5.4 million (-0.3%) | \$35.5 million (2.3%)         | \$92.3 million (5.6%)  | \$89.5 million (5.1%)    |

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<sup>37</sup> Exhibit 103, p. 9.

As was the case with the electric rate plan, the development of a revenue requirement estimate began with proposals by Staff and the Company that were far apart. Nevertheless, with the application of a 9.0% ROE allowance and other adjustments, these parties were able to agree on a revenue requirement estimate for use in a proposed gas rate plan. We find the result reached by these parties to be credible and appropriately balanced between the Company and the Staff's proposals.

The proposed gas rate plan is a three-year rate plan, just as was recommended in the electric case. Unlike the electric rate plan, the revenue requirement increase in Rate Year One under the gas rate plan is already significantly lower than the increases in Rate Years Two and Three, and the Rate Year Two and Three increases are relatively equal. Under these circumstances, the supporters of the Joint Proposal concluded that no further levelization is needed, and we agree. We find, nevertheless, the increased predictability that comes with a three-year plan to be a benefit to customers and to the Company.

The proposed gas rate plan also identifies four new categories of costs that will be included in the MRA.<sup>38</sup> The first of these categories provides for recovery of costs that are incurred for leak prone gas main replacements or leak backlog reductions above the targets established for the

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<sup>38</sup> The other three categories of cost are: recovery of costs incurred to reimburse two gas pipeline companies for work needed at the interstate pipeline companies' facilities at the Peekskill and Rye gate stations; recovery of costs for the incentives earned under the Advanced Metering Infrastructure (AMI) Earnings Adjustment Mechanism (EAM) as described in Section M.3; and the gas division's share of costs for the Climate Change Vulnerability Study as discussed in Section O.

mechanism.<sup>39</sup> Under the provisions of Section B.2.b of the Joint Proposal, if the Company's pipe replacement efforts exceed the annual target, its incremental costs for replacements above the target are recoverable through the Safety and Reliability Surcharge Mechanism (SRSM) which will be a component of the Monthly Rate Adjustment.

An incentive program to shape the Company's program to replace leak prone pipe (LPP) is also set forth in the Joint Proposal.<sup>40</sup> As part of this incentive program, the Company will incur a negative incentive if it fails to meet the annual targets as set forth in the Joint Proposal for the replacement of LPP. At the same time, the incentive program will provide a positive incentive to the Company if the LPP program replaces more than the annual target level of LPP. These provisions are an important corollary to the provisions of Appendix 16 in as much as it provides a mechanism by which the Company can recover the incremental costs incurred when more than the target level of LPP is replaced.

In testimony, New York City objected to the creation of this new SRSM mechanism insofar as it appears to incent the replacement of LPP "no matter what the cost"<sup>41</sup> and have argued that LPP replacement costs should be recovered through base rates, like many other Company expenses.<sup>42</sup> As it is presented in the Joint Proposal, the SRSM properly limits recovery to the prudent, necessary and incremental LPP replacement costs, which

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<sup>39</sup> The performance metric for pipe replacement is described in the Joint Proposal Section I.1.a and Joint Proposal, Appendix 16 at 5-6.

<sup>40</sup> Joint Proposal Appendix 16 at 10-11.

<sup>41</sup> Exhibit 225, p. 33.

<sup>42</sup> Exhibit 227, p. 22-23.

are capped on a locational unit basis, associated with the replacement of above-target LPP. More importantly, this provision, together with the positive incentive described in Appendix 16, appropriately reflects the importance we attach to the timely replacement of leak prone pipe and to alternative cost recovery mechanisms such as the SRSM.<sup>43</sup> As we observed in our Leak Prone Pipe Order, opportunities to further accelerate the rate at which LPP is removed and replaced should be explored. The SRSM should help Con Edison take advantage of such opportunities.<sup>44</sup>

The rates proposed in the gas rate plan thus reflect a balancing of the parties' competing interests while furthering the Commission's policy objectives.

C. Computation and Disposition of Earnings and Cost of Capital

The revenue requirements set forth in the Joint Proposal are based on a capital structure with a 48% common equity ratio and a 9.0% ROE for each of the three years of the Con Edison electric and gas rate plans. Pursuant to the Joint Proposal's earnings sharing mechanism (ESM), there would be a 50 basis point dead band before sharing of any excess earnings. Per the ESM, the Company's earnings will be calculated for each Rate Year. Earnings above 9.5%, up to and including 10.0%, would be shared equally between ratepayers and the Company; ratepayers would receive 75% of any earnings over 10.0%, up to and including 10.5%, and 90% of any earnings over a 10.5% ROE. If the Company does not file for new base delivery rates to take effect within 15 days after the expiration of Rate Year Three,

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<sup>43</sup> See Case 15-G-0151, Accelerated Replacement of Natural Gas System Infrastructure, Order Instituting Proceeding for a Recovery Mechanism to Accelerate the Replacement of Leak Prone Pipe (Leak Prone Pipe (LPP) Order) (April 17, 2015).

<sup>44</sup> LPP Order, pp. 5, 7.

the earnings sharing thresholds will continue until base delivery rates are reset by the Commission.

In addition to describing the methodology for determining the amount of earnings sharing in the rate year, the Joint Proposal also specifies, in general, how the deferral for the benefit of ratepayers and the remaining earnings thereafter available to the Company should be used. The Joint Proposal states that, for earnings above the related earnings sharing threshold in any rate year, the Company will apply 50 percent of its share and the full amount of the customers' share of earnings to reduce respective unrecovered amounts of Site Investigation and Remediation (SIR) costs deferred in the Rate Year. Should the amount of available shared earnings exceed the level of SIR costs deferred in a rate year, the Company will use the excess to reduce other interest bearing cost deferrals.

Previously, ESMS have been used in rate plans for Con Edison and for many other New York utilities. We endorse, in general, and, in particular with respect to the proposed rate plans here, the use of ESMS. These mechanisms encourage a utility to cut its costs, while providing ratepayers protection if actual financial results are dramatically different than had been forecast.

In its filing, Con Edison requested a 48% common equity ratio for ratemaking purposes. The Company proposed an equity ratio component that is lower than its stand-alone capital structure in order to minimize the controversial issues and facilitate reaching a multi-year plan through settlement in these proceedings. Staff also supported a 48% common equity ratio in its direct case, stating that a 48% common equity ratio should continue to be cost-effective and satisfactory to maintain the Company's current credit ratings, and should be

sufficient for the Company to continue to attract capital at reasonable terms.

No other party filed testimony stating a position on capital structure in these cases. The use of a 48% equity ratio is a reasonable outcome, in light of the other aspects of the rate plans of the Joint Proposal. It should help to maintain the Company's financial integrity, while appropriately minimizing the cost to ratepayers of relatively expensive equity capital.

The 9.0% ROE proposed by the signatory parties falls squarely between the Company's proposed 9.75% ROE and Staff's originally proposed ROE of 8.6%. The Company states that "the 9.0% ROE is arguably but barely within the zone of reasonableness for a one-year rate plan"<sup>45</sup> but that the 9.0% ROE is consistent with ROEs approved by the Commission for utilities in New York for multi-year rate plans over the last year. Staff asserts that the 9.0% ROE is reasonable, given the current economic environment and that "the allocation of risk and the rate of return reflected in the Joint Proposal reasonably balance the return requirements of Con Edison's investors with customers' expectations of safe and reliable service at just and reasonable rates."<sup>46</sup>

Only the Company and Staff provided a proposal for ROE with supporting testimony in these cases. Both relied upon technical experts using sound financial models to estimate the ROE that should be used in the revenue requirements for Con Edison's electric and gas rates. Based on our expertise and professional judgment, we agree with the parties' recommendation and endorse their agreement to use an ROE of 9.0% for these rate

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<sup>45</sup> Con Edison Statement in Support, p. 9.

<sup>46</sup> Staff Statement in Support, p. 9.

plans. In light of the need to compensate investors for additional business and financial risk inherent in a multi-year agreement, the agreed to 9.0% ROE is a reasonable outcome relative to Staff's initial 8.6% recommendation. This is especially true considering the increase in interest rates from the time the Joint Proposal was filed in September 2016 to present day. Taking into consideration all of the changes in the economic environment that have occurred since the Company filed these rate cases in January 2016, the 9.0% ROE reflected in the Joint Proposal is a reasonable outcome.

D. Capital Expenditures and Net Plant Reconciliation

1. Electric

a. Net Plant Reconciliation

Provisions to provide a downward only net plant in service reconciliation were part of the now expiring rate plan. In its initial filing the Company sought to discontinue this reconciliation mechanism.<sup>47</sup> In its testimony, Staff sought the continuation of this mechanism because, it asserted, the mechanism provides ratepayers with a protection from utility underspending that would not otherwise be available.<sup>48</sup> In the Joint Proposal, the parties recommended the continuation of the net plant reconciliation mechanism. We agree that the mechanism protects ratepayers and find that the Joint Proposal's proposed continuation of this reconciliation fully justified.

b. Non-Wires Alternative Adjustment Mechanism

The Joint Proposal recommends that the costs incurred for the implementation of NWAs during the rate plan be recovered over ten years. During the term of the rate plans, they would

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<sup>47</sup> Exhibit 25, p. 183.

<sup>48</sup> Exhibit 96, p. 37.

be recovered through the Monthly Adjustment Charge (MAC) and NYPA's Other Charges and Adjustments (OTH) Statement. The Joint Proposal also recommends that the Company be provided an opportunity to earn an incentive on NWA projects equivalent to the incentive that the Commission approves for projects in the Company's Targeted Demand Management (TDM) program.<sup>49</sup>

The recommendations in the Joint Proposal further provide that, where a NWA project displaces a project otherwise included in the Company's capital program, the overall capital spending target in the Joint Proposal's Net Plant Reconciliation mechanism will be reduced by the forecast costs of the now displaced capital project. The revenue requirement reflected in rates under the Joint Proposal for the carrying costs of displaced capital projects will not be deferred for later disposition to ratepayers but will be used to offset, to the extent possible, the costs of NWA projects.<sup>50</sup>

The proposed rate plan would require the Company to submit an implementation plan for all NWAs that includes detailed measurement and verification procedures, describes the Company's portfolio of NWA projects, demonstrates whether each NWA project's expenditures are incremental to the Company's

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<sup>49</sup> Joint Proposal, p. 30. The TDM program referenced in this Section of the Joint Proposal is described in Case 15-E-0229, Targeted Demand Management Program, Order Implementing with Modification the Targeted Demand Management Program, Cost Recovery, and Incentives (December 17, 2015) (TDM Order).

<sup>50</sup> In the Commission's companion Order in Case 15-E-0229, for the purposes of integrating the TDM Program with the terms of the Joint Proposal, we have required that the Company's TDM Program end. Henceforth, any NWA project in the Con Edison service territory shall be completed under the NWA provisions of this rate plan as adopted in this proceeding. In addition, any project undertaken as part of the TDM Program to date shall be evaluated and managed in accordance of the Joint Proposal provisions applicable to NWA projects, and it shall be held to the same scrutiny and standards.

revenue requirement or will be displacing a project subject to the Net Plant Reconciliation mechanism, and details the Company's customer and community outreach plan. Implementation plans will be updated no less frequently than annually. In addition to these annual reports, the Company will provide quarterly reports to detail expenditures and program activities, including detailed project costs, project in service dates, incremental costs incurred, operational savings, and other benefits.

Finally, it is recommended that the Company perform a Benefit Cost Analysis (BCA) when there is reasonable certainty as to the costs of each NWA project and a second BCA using actual NWA costs after each NWA project is completed. We recognize that the second BCA is more informational in nature and that it will be used to learn what approaches worked better than others, thereby informing the implementation of future NWA projects. It is not intended to second-guess the decision to move forward with the NWA project in the first instance.

The Commission's Track Two Order has clearly identified NWA projects as a useful early step in the transformation of markets.<sup>51</sup> That order emphasizes that NWA projects are intended to preserve the utility's earning opportunities. Here, the proposed treatment of NWA projects are appropriately designed to do just that, even where the NWA project may displace a capital investment on which the utility could otherwise earn its return. The proposed rate plan provides explicit direction of the manner in which the utility's earning opportunity will be preserved, while also insuring that customers will be protected from paying for both an NWA project

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<sup>51</sup> Track Two Order, pp. 6, 24.

and for the capital project it is displacing. For these reasons, these recommendations are approved.

2. Gas Net Plant Reconciliation

The recommendations for gas Net Plant Reconciliation track closely to those described above for electric, including a downward-only reconciliation to protect ratepayers in the event the Company is unable to place plant in service as currently forecast. Notwithstanding the general rule describing a downward-only Net Plant Reconciliation, the recommendations in the Joint Proposal recognize one instance when the Company's plant in service may exceed the Average Gas Plant in Service target, and the Company will nevertheless be able to defer on its books for future recovery from customers the carrying charges associated with this exceedance. The exception is allowed when the Company places plant in service which is associated with certain municipal infrastructure support-related capital costs for certain specified projects.<sup>52</sup>

Interference costs are difficult to predict and may be particularly difficult to predict when associated with New York City municipal or public works projects described in the Joint Proposal. In these circumstances, we find the exception providing for an upward reconciliation based on the interference costs for the specified projects appropriate, and we approve it.

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<sup>52</sup> The Company is also aware of an interconnection project by the Millennium Pipeline Company, LLC that could go forward during the rate plan but which is not currently included in the average net plant in service estimates for Rate Years One, Two, or Three. If the Millennium Interconnection is developed more quickly than currently anticipated, the terms of the Joint Proposal recommend that the Company be permitted to defer the revenue requirement associated with the costs it will incur for its interconnection facilities to the Millennium Interconnection for recovery in its next rate case.

3. AMI Net Plant Reconciliation

The Commission's AMI Order authorized Con Edison to implement its AMI Business Plan subject to a \$1.285 billion cap on the combined costs of the gas and electric AMI programs. The project is expected to take six years to fully implement, a period that will extend beyond these rate plans. During the rate plan, the Joint Proposal provides that the reconciliation of AMI-related plant in service will not be incorporated into the reconciliation calculations for the non-AMI plant in service. At the end of the rate plan, the Company will defer for customer or Company benefit the revenue requirement associated with actual versus forecast AMI plant in service (assuming it has not reached the \$1.285 billion cap). The Joint Proposal recommends that the disposition of this deferral not occur until full AMI deployment is complete.

These provisions, together with the provisions at Sections E.16 (AMI Customer Engagement Plan and AMI Rate Pilots), F.1.c (Depreciation of Legacy Meters) and M.1 (AMI Scorecard), M.2 (AMI Platform Revenues), and M.3 (AMI Earning Adjustment Mechanism), implement important aspects of our recent AMI Order. The AMI program advances many elements of our REV agenda. The measures adopted here will help to assure that the AMI program in the Con Edison service territory can move forward promptly and with all deliberate speed. The reconciliation provided here removes any incentive to delay AMI implementation and provides the Company flexibility to accelerate AMI deployment. Moreover, maintenance of the cap preserves the appropriate incentive for the Company to prudently manage its AMI expenditures.

E. Reconciliations

The proposed rate plans would have the Company reconcile certain projected costs (as listed in the Joint Proposal) partially or fully to actual cost levels during the rate plan. Reconciled balances will be deferred for recovery from or crediting to customers and will be addressed in future rate proceedings, unless otherwise specified in a recommendation in the Joint Proposal.

1. Property Taxes (Electric and Gas)

It is recommended in the Joint Proposal that the variance, if any, between the estimates of property tax expense on which the Joint Proposal revenue requirement are based and actual property taxes paid should be reconciled to the extent of 90% of the variance. In addition, it is suggested that Con Edison may seek a greater than 10% share of lower than forecasted property tax expenses if, through its extraordinary efforts, fundamental taxation changes are secured that produce substantial net benefits to customers. These provisions are virtually identical to the property tax reconciliation provisions approved in the 2014 Rate Order.

The value of the Company's 10% share of the amounts by which property taxes are below or above the expense for property taxes in the rate plan is capped. In the current rate plan, this cap is set at an amount equal to ten basis points on common equity for all three years of the rate plan. In the proposed rate plan, however, the cap is an amount equal to ten basis points in Rate Year One, seven and one half basis points in Rate Year Two, and five basis points in Rate Year Three. The 90-10 sharing mechanism is intended to provide an incentive for the Company to seek property tax reductions and to resist property tax increases whenever possible. The sharing mechanism has been part of the property tax reconciliation for a number of years,

and, we believe, has provided the intended, limited incentive to shape the Company's actions. While the declining cap provides less of an incentive in this regard than the fixed 10% cap which is currently in use, we believe that the structure of the reconciliation, taken as a whole, is still faithful to its purpose, and we approve the property tax reconciliation as set forth in the Joint Proposal.

2. Municipal Infrastructure Support (Other than Company Labor) (Electric and Gas).

The Joint Proposal recommends the continuation of the reconciliation of gas and electric municipal interference expenses. The mechanism to be continued is asymmetrical. When the rate plan allowances for these costs are greater than the actual costs incurred, the Company defers for the benefit of ratepayers 100% of the difference. However, when the rate plan allowances fail to provide the full amount of the actual costs, the Company will defer for a later collection from ratepayers 80% of those amounts greater than the rate plan targets up to a cap of 30% above the rate plan targets. There will be no recovery of amounts greater than the rate plan targets plus 30% unless the expense is attributable to certain specified public works projects.

The provisions for the reconciliation of Municipal Infrastructure Support costs in the Joint Proposal are the same as those set forth on this topic in our 2014 Rate Order. Other than the objection by the New York Independent Contractors Alliance (NYICA) discussed below, no party has suggested any modification to this mechanism, and we see no need for a modification at this time. Therefore, this provision of the Joint Proposal is approved.

Objection NYICA 1. The New York Independent Contractors Alliance opposes the provisions in the Joint

Proposal that address Municipal Infrastructure Support. It argues that, under an earlier version of the Company's Standard Terms and Conditions for Construction Contracts,<sup>53</sup> the Company was able to contract with companies which would complete the contract work using labor supplied by NYICA or other similar organizations. NYICA asserts, however, that after October 2014, the Company's Standard Terms and Conditions for Construction Contracts<sup>54</sup> required the Company to contract only with companies that would complete the work using labor supplied by the Building & Construction Trades Council of Greater New York and not contract with companies that use labor associated with NYICA.

In NYICA's view, this change in policy by Con Edison reduces the competition for Con Edison work and will likely increase the municipal interference expense. NYICA seeks a Commission directive to the Company to reverse its 2014 change to the Standard Terms and Conditions so that companies associated with NYICA would not be disqualified from the competition for Con Edison work.<sup>55</sup>

Con Edison responds that historical experience demonstrates that, after the Company's Standard Terms and Conditions were amended in 2014, it has actually experienced an increase, albeit modest, in the number of bids received. Con Edison also argues that the NYICA's expressed concern for the ratepayers is merely a distraction from its real intent of

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<sup>53</sup> Exhibit 188, pp. 13-14.

<sup>54</sup> Exhibit 189, pp. 13-14.

<sup>55</sup> Post Hearing Memorandum of the New York Independent Contractors Alliance (November 16, 2016), p. 10.

Reply Statement by Con Edison in Support of Electric and Gas Joint Proposal (October 21, 2016), p. 28.

trying to get the Commission to insert itself into labor relation matters more properly decided elsewhere.<sup>56</sup>

Objection NYICA 1 - Discussion. At the outset, we note that NYICA's claim that interference costs will be greater than forecast in this case is, at best, pure speculation and unsupported by this record. Further, the facts supplied by Con Edison suggest that there may have been an increase in contractor interest in the Con Edison work since the 2014 change in the Company's Standard Terms and Conditions.

NYICA asserts that the 2014 change in the Company's Standard Terms and Conditions will increase costs for interference work. However, as Con Edison points out, a great deal of the paving work that is the focus of NYICA's objection is unrelated to municipal interference. In those instances where paving work is unrelated to municipal interference, the impact of the 2014 change in the Standard Terms and Conditions on interference costs that are included in rates is even further diminished, because those costs are not reconciled.

In an effort to provide every opportunity to assure the parties and the Commission that the Company is committed to fair bidding in its customers' interests, Con Edison represented at evidentiary hearings that it was amenable to a Staff recommendation that the Commission require the Company to make a showing in its next electric and gas rate filings that its O&M and capital costs have not increased as a result of the change to its Standard Terms and Conditions.<sup>57</sup> However, given the

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<sup>56</sup> As evidence, Con Edison points to cases involving similar complaints about the Company's Standard Terms and Conditions before the National Labor Relations Board and the Federal District Court for the Southern District of New York. Reply Statement by Con Edison in Support of Electric and Gas Joint Proposal, October 21, 2016 at 28.

<sup>57</sup> Transcript of November 2, p. 37.

evidence in this case on the actual experience with bidding demonstrating that such a requirement is unnecessary, as well as our appropriate reluctance to become involved in the management of labor contracts, we will not impose the requirement at this time. The Company has and will continue to have the burden of proof on this issue. Should the Company, when it is compiling its next rate case, identify a material increase in the cost of paving or any other municipal infrastructure support expense associated with the 2014 change to its Standard Terms and Conditions, it should demonstrate the cause of such an increase. Should the parties have any concerns about the amount sought or the Company's explanation, those concerns may be pursued in that case.

3. BQDM Program and REV Demo Project Costs (Electric)

The rate plan reflects amounts in base rates for the projected average unrecovered balance of the Brooklyn Queens Demand Management (BQDM) program (\$92.9 million for Rate Year One) and for REV Demo projects (\$31.9 million for Rate Year One), and similar estimates for Rate Years Two and Three.<sup>58</sup> The parties recommend that the Company defer the annual revenue requirement associated with program expenditures above or below the targeted levels that are included in the electric revenue requirements. The BQDM Program and REV Demo Projects are expected to make valuable additions to our knowledge base as they are implemented in real time. Accordingly, we agree that the two-way reconciliation proposed in the Joint Proposal is appropriate to support these initiatives.

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<sup>58</sup> Joint Proposal, Appendix 8, p. 1; Appendix 9, p. 1.

4. AMI Customer Engagement Plan/Rate Pilots (Electric and Gas)

The proposed rate plan reflects the target amounts in base rates in Rate Year One (\$3.2 million) for the AMI Customer Engagement Plan and Rate Pilots. The target amounts are significantly increased to \$9.9 million and \$11.0 million in Rate Year Two and Rate Year Three, respectively.<sup>59</sup> It is proposed that the Company will reconcile actual costs to the annual targets established in the rate plan. If the Company underspends in any rate year against the amount established in the rate plan for that year, the underspending will be deferred and may be used to offset actual expenditures in that or future years that are higher than the rate plan allowances. Any deferral for the benefit of customers will be calculated at the end of the three-year term of the rate plan. This provision of the Joint Proposal protects customers and the Company in the event that spending through the AMI Customer Engagement Plan or Rate Pilots differs from the amounts assigned to these activities in the rate plan.

5. System Peak Reduction, Energy Efficiency and Electric Vehicle Programs

In the proposed rate plan, the Company's base rates reflect the costs of its System Peak Reduction and Electric Vehicle Programs and an Energy Efficiency Program incremental to its Efficiency Transition Implementation Plan (ETIP). The proposed base rates also reflect Electric Vehicle expenses associated with incentive payments to electric vehicle owners that charge during off-peak hours.<sup>60</sup> The parties recommend that, in the event it has underspent any of these amounts, the Company will defer the amount of the underspending for future credit to

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<sup>59</sup> Id.

<sup>60</sup> Joint Proposal, Appendix 8, p. 1; Appendix 9, p. 1.

customers. In any year in which the Company overspends against these rate allowances, the amount of this overspend would not be recoverable from customers. We find that these provisions provide appropriate protection to ratepayers.

F. Additional Accounting Provisions

1. Depreciation Rates and Reserves

The allowance for depreciation of electric plant in the Company's updated filing was \$977.8 million. In its pre-filed testimony, Staff recommended that the Company's electric depreciation expense in the rate year should be set at \$884.2 million - a difference of \$93.6 million.<sup>61</sup> For gas, the Company's updated request for a depreciation allowance in the rate year was \$207.72 million, and Staff's recommended allowance was \$177.1 million - a difference of \$30.62 million.<sup>62</sup>

The Joint Proposal specifies the average service lives, net salvage factors and life tables which should be used to calculate the depreciation reserve, and the parties recommend that these values be used to establish the depreciation-related portion of the revenue requirement for the electric and gas rate plans. Using these values, the Joint Proposal recommends allowances of \$917.4 million and \$184.12 million for electric and gas, respectively. Of the \$242.33 million increase in the Rate Year One electric revenue requirement specified through the Joint Proposal, \$55.74 million is provided to meet depreciation expenses. Of the \$35.48 million increase in the Rate Year One gas revenue requirement provided through the Joint Proposal, \$24.96 million is provided to meet depreciation expense from the Company's gas plant.

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<sup>61</sup> Exhibit 95, Schedule 1.

<sup>62</sup> Exhibit 129, p. 8.

The signatory parties also agreed that there is an electric depreciation reserve deficiency which should be amortized. In the Joint Proposal, it is recommended that this deficiency be addressed by amortizing half of the deficiency (above a 10% tolerance band) over a 15-year period.

Finally, the Joint Proposal recommends that the depreciation rates for existing non-AMI meters will continue to apply during the AMI deployment period, and, thereafter, any remaining undepreciated investment in legacy meters will be amortized over a 15-year period.

We approve of the agreement on depreciation expense reached among the signatory parties. It is particularly important that part of this agreement will begin to address an electric depreciation reserve deficiency and will better match recovery with those ratepayers receiving the benefit of the associated assets.

## 2. Hudson Avenue

The Hudson Avenue Generating Station is carried on the books of the steam division, although the Station has been retired from service since 2011. The Company reports that the facility "has no current or future use" for its steam business, but that the electric business "is reasonably expected to need the properties for electric service."<sup>63</sup> In light of these circumstances, the parties recommend that 83% of the book value of this asset and the full book value of the land associated with it should be transferred to the electric division as of January 1, 2017. Beginning on that date and until steam base delivery rates are reset, the Company will defer for future credit to steam ratepayers 83% of the carrying charges

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<sup>63</sup> Con Edison Statement in Support of Electric and Gas Joint Proposal, p. 26.

associated with the Hudson Avenue Plant and 100% of the carrying charges for the land balance associated with that plant.

In general, carrying charges for an asset should be assigned within Con Edison to the business for which the asset is or will be used to provide service. While the Hudson Avenue plant was a steam asset for many years, this is not so now. In light of the record on this issue, including the historic utilization of this property and allocation of costs when it was in use, and the economic value of the land transferred, we view the 83-17 allocation of costs between electric and steam businesses to be appropriate. Accordingly, the transfer of this asset from the steam to the electric business, the allocation of associated costs, and the provision here to assure that no double recovery on carrying charges for this asset will occur, are approved.

### 3. Income Tax

The rate increases recommended in the Joint Proposal include the Company's correction of its method for the calculation of the cost of removal of plant upon retirement in determining income tax expense. The correction increases electric rates by \$35.0 million<sup>64</sup> and gas rates by \$35.3 million. These increases provide in part for the recovery over time of the estimated regulatory asset balances of \$1.7 billion for electric and \$111.7 million for gas that the Company claims are the cumulative rate effect of this error in accounting which understated income tax expense in past periods.

The Joint Proposal recommends that Staff will conduct an audit to verify the existence of the cost of removal error in

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<sup>64</sup> In the Company's electric department revenue requirement established in Case 15-E-0051, an increase of \$93.4 million was provided to partially correct for this error.

the Company's previous income tax accounting, to verify that ratepayers received the benefit of the lower income tax expense in rates in an amount equal to these regulatory assets, and to confirm that the Company's calculation for the correction of the error as reflected in the revenue requirements is correct. Staff will also perform an audit of the Company's determination of the electric and gas excess deferred federal income tax liability balances which are a component of rate base in the revenue requirements. Final agreed-upon or Commission-ordered differences resulting from the Staff review will be deferred and any amounts to be refunded or collected will be determined by the Commission.

Pursuant to the recommendations in the Joint Proposal, the Company will begin to correct for a serious tax error and commence recovery of a regulatory asset associated with the correction of this error. At the same time, Staff will conduct several audits to confirm existence and extent of the error, the benefit, if any, that ratepayers received as a result of the error. These audits are necessary to assure that the interests of ratepayers are protected as the Con Edison error is remedied. For this reason, the actions to be taken because of this tax error are appropriate and we approve them.

G. Electric Revenue Allocation /Rate Design.

1. Revenue Allocation.

The Joint Proposal's recommendations on revenue allocation and rate design are based on a 2013 Embedded Cost of Service (2013 ECOS) Study submitted by Con Edison with its initial January 2016 filing. The 2013 ECOS Study analyzed the costs and revenues associated with Con Edison's electric delivery system for 2013, based on its existing rates, to determine the service classes' respective rates of return as measured against the system as a whole. The results of the

Company's 2013 ECOS Study were used to determine the allocation of revenues and to design the rates provided for in the Joint Proposal.

To mitigate the interclass shifts of revenue responsibility based on the Company's ECOS Study, the parties agreed to phase in the ECOS Study results by reflecting only one-third of the class-specific 2013 ECOS Study deficiencies and surpluses in each rate year. In this manner, the Joint Proposal attempts to balance the interests of correcting surpluses and deficiencies with that of avoiding the rate shock that might accompany the complete elimination of any one class's deficiency.

UIU's general objection to Con Edison's ECOS. UIU argues at the outset that using or relying on the results of the ECOS Study as a whole is not in the public interest. UIU claims that the ECOS Study relies heavily on inappropriate, incorrect, and/or untested assumptions that tend to shift apparent cost responsibility to smaller customers. Because of these flaws, UIU asserts, the results of the ECOS study cannot provide a reliable basis for revenue allocations in the Joint Proposal.<sup>65</sup>

In defense of the 2013 ECOS Study, Con Edison and Staff assert that the National Association of Regulatory Utility Commissioners (NARUC) manual, which provides guidance on the preparation of cost of service studies such as the 2013 ECOS Study is supportive of the methodologies used by the Company in its study.

We cannot agree with UIU's position. As UIU itself notes, the determination of a customer's embedded cost of service is largely an exercise of judgment. There can be

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<sup>65</sup> Statement of the Utility Intervention Unit on the Joint Proposal (October 13, 2016) (UIU Statement on the Joint Proposal), pp. 23-24.

reasonable disagreement over the preferred methods for undertaking, and the assumptions underlying, an ECOS Study. However, UIU has not shown that the use of any assumptions in the ECOS Study was improper. Both Staff and Con Edison demonstrate that the NARUC manual acknowledges the choices made in the ECOS Study as reasonable. Inasmuch as the methods employed in the ECOS Study are recognized by the NARUC manual, the Joint Proposal provisions can be properly found within the range of likely outcomes of litigation. We find that the public interest is best served by continuing to rely in these cases on the ECOS study as presented by the Company in its initial filing.

In addition to UIU's general objection to reliance on the 2013 ECOS Study, it also raises objections to four specific elements of the Study, and these are addressed below.

Objection - UIU 1. UIU opposes the Company's proposal to change its ECOS methodology from one making no allocation of the costs of primary distribution facilities based on a customer component to a methodology in which the costs of these facilities are divided between a customer component and a demand component. UIU emphasizes, first, that the prior practice had been used over a long period of time and, it asserts, the Company provided no credible rationale why this methodological change must be made.<sup>66</sup>

The Company explains that it made this methodological change because, under our 2014 Rate Order, the Company was required to re-evaluate its cost of service methodologies related to the classification and allocation of customer costs. As such, the Company examined how other New York electric utilities allocated distribution plant and found that the costs

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<sup>66</sup> UIU Statement on the Joint Proposal, p. 28.

associated with primary distribution systems were commonly allocated using both customer and demand components. Consequently, Con Edison urges that its methodology to allocate costs for primary distribution facilities should be brought into alignment with that of the other utilities and with that used by Con Edison for secondary distribution facilities. Con Edison also asserts that the change reflects a growing emphasis on fixed cost recovery.<sup>67</sup> Staff indicates that it is in agreement with the Company and has accepted the Company's proposal to make this methodological change. In support of its agreement, Staff emphasizes its view that the proposed methodological change has been accepted in the applicable NARUC Electric Manual.<sup>68</sup>

Objection - UIU 1 -Discussion. In general, we consider changes to the historic approach used by a utility in preparing an ECOS study with care. These methodologies have evolved with experience, and the parties have become well acquainted with the issues presented by the study. Consequently, we are wary of any substantial revision to an ECOS study's methodology that might risk the Company, Staff and other parties becoming misdirected or misunderstanding of the results of the work. In addition, substantial revisions to the methodology could generate large changes in the revenue requirements to be recovered from the customer classes and introduce further pressure to adjust rates to a significant degree. Here, however, the Company has changed but a single aspect for its ECOS Study and, thus, limited the confusion or misunderstanding that a wholesale revision to the ECOS Study methodology could cause. More significantly, we agree with Staff that Con Edison's decision to recognize a customer

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<sup>67</sup> Transcript of November 2, 2016, p. 224.

<sup>68</sup> Transcript of November 2, 2016, p. 440.

component for primary distribution facilities follows the NARUC manual, brings Con Edison into line with other utilities in the State, and recognizes that the costs associated with the primary distribution system vary with the number of customers served by it as well as by the demand such customers place on the system. Therefore, contrary to UIU's assertions, Con Edison has adequately explained and supported the change.

Objection - UIU 2. UIU contends that the Con Edison ECOS Study relies on a flawed minimum system methodology. According to UIU, the Company's minimum system methodology should estimate the portion of distribution plant costs that are incurred in order to connect customers to the Company's electric or gas system.<sup>69</sup> In UIU's view, however, the "minimum system" described by Con Edison for the ECOS Study is not truly "minimum." In particular, UIU asserts, Con Edison includes secondary conductors and transformers larger than necessary to carry and deliver the minimum load. UIU proposed an alternative set of facilities to be considered "minimum." In response, the Company asserts that it has chosen conductor sizes and transformer sizes in a manner consistent with agreements reached in an earlier 2004 Con Edison rate case. Further, it asserts that the sizes of wire chosen by UIU represents a very small portion of the conductors in the Con Edison system, and the size of transformer chosen by UIU is inconsistent with the range of transformers in use on the system.

Objection - UIU 2 - Discussion. In evaluating the UIU assertions on this point, we are mindful of the historic backdrop in which most issues associated with Con Edison's ECOS Study were resolved years ago. Indeed, one of these issues was explicitly addressed in a Memorandum of Understanding adopted in

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<sup>69</sup> UIU Statement on the Joint Proposal at 26.

a 2004 Con Edison rate case.<sup>70</sup> Further, we recognize, as did UIU, that an ECOS Study is often something on which reasonable minds can differ and a study's conclusions reflect many judgment calls. Similarly, we have been reluctant to adopt changes in a cost of service study which resulted in very large shifts in cost responsibility which is not accompanied by "compelling evidence that it is necessary to rectify some serious inequity."<sup>71</sup> Here, Con Edison has asserted that UIU's proposed changes are inconsistent with Con Edison's current practices and the attributes of its physical plant, and Staff supports use of the ECOS study over UIU's objections. UIU has failed to demonstrate that the minimum system methodology is flawed and therefore that any inequity has been created. For these reasons, we decline to adopt the UIU objections on this point.

Objection - UIU 3. In the Company's 2013 ECOS Study, the D08 allocator is used to guide the allocation of secondary distribution plant cost. The allocator itself is a weighted average of Non-coincident Peak (NCP) and Individual Customer Maximum Demand (ICMD). ICMD is the total of the maximum demands of each individual customer. In reality, asserts UIU, all customers do not impose their demands at the same time. Rather, individual customers will be using their maximum demand at different times than others who are supplied by the same distribution equipment, and as a group, the customers will have a Non-coincident Peak (their NCP) that is less than the ICMD for that group. UIU argues that a correctly sized system would be designed to meet the NCP, not the higher ICMD, and that the D08

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<sup>70</sup> Case 04-E-0572, Con Edison Electric Rates, Memorandum of Understanding, (March 17, 2006).

<sup>71</sup> Case 08-E-0887 et al., Central Hudson - Electric and Gas Rates, Order Adopting Recommended Decision with Modifications (June 22, 2009).

allocator should be based on NCP alone, and not a weighted average of NCP and ICMD.<sup>72</sup>

The Company and Staff do not agree with UIU's proposal to exclude ICMD from the D08 allocator. Their argument is that both ICMD and NCP are recognized in the Electric NARUC Manual as the statistics normally used to allocate the demand component of distribution plant. They also highlight the recognition in the NARUC manual of the fact that distribution infrastructure is normally located relatively close to the customer and, therefore, is more likely to be sized to match ICMD.<sup>73</sup> Finally, the Company asserts that the combined NCP/ICMD allocator has been used on numerous occasions in previous ECOS studies without objection from Staff or the Commission.

Objection - UIU 3 - Discussion. Like the Company and Staff, we find the Company's decision to continue to use the distribution system allocator which takes account of both NCP and ICMD to be appropriate, and we are unconvinced that this historic practice should be displaced. Further, we refer, as we did with respect to UIU's objection to the Company's use of a "minimum system" methodology, to our emphasis on the need for "compelling evidence" of a "serious inequity" in order to justify a change such as UIU is seeking here.

Objection - UIU 4. The recommendation in the Joint Proposal for the allocation of AMI program costs is to treat these costs in the same manner as the rest of the revenue

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<sup>72</sup> Utility Intervention Unit Statement in Opposition to the Joint Proposal (October 13, 2016) at 35-39.

<sup>73</sup> Transcript of November 2, 2016, pp. 219-223; New York State Department of Public Service Staff Statement in Reply to Opposition (October 21, 2016) p. 4; Transcript of November 2, 2016, pp. 443; Exhibit 140, pp. 12-14.

increase in that rate year.<sup>74</sup> UIU, however, argues that the AMI project and its costs are fundamentally different from other, more conventional utility investments. UIU asserts that the costs should be allocated among classes based on the benefits, or the "value of service," each class receives from the AMI project. It further contends that each class's benefits are best approximated by each class's energy consumption.<sup>75</sup>

Both Con Edison and Staff assert that the allocation methodology that UIU recommends should be rejected. Con Edison argues that, contrary to UIU's comments, there are several recent, large capital projects which the Company has implemented, and none of these projects have been seen to justify an unconventional, or other than "cost causation" based, cost allocation scheme.<sup>76</sup> The Company also refers to several recent capital projects where the benefits from the project are clearly focused on a subset of Con Edison customers, but the costs of the project have not varied from the conventional "cost causation" methodologies.<sup>77</sup>

Staff also urges us to reject UIU's recommended departure from familiar "cost causation" principles. In stating its opposition to the UIU proposal, Staff emphasizes the difficulties that would be experienced in trying to define precisely and to quantify in a permanent way the benefits that any particular customer class would receive from the AMI project.<sup>78</sup> Staff further emphasizes that, at the current time, many benefits from the AMI project, while identifiable, cannot

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<sup>74</sup> Transcript of November 2, 2016, p. 267.

<sup>75</sup> Transcript of November 3, 2016, p. 76.

<sup>76</sup> Transcript of November 2, 2016, pp. 268.

<sup>77</sup> Id.

<sup>78</sup> Transcript of November 2, 2016, pp. 451-452.

be quantified, making an allocation of costs based on these benefits speculative at best.<sup>79</sup>

Objection - UIU4 - Discussion. We cannot agree with UIU that the allocation of AMI project costs should be done on a novel "value of service" or benefits basis. UIU has not provided any reference to other cases where an allocation based on cost causation has been supplanted by a benefits methodology. Finally, we agree with Staff that many benefits of the AMI program, while identifiable, are not yet readily quantifiable. In this context, we decline to direct a modification of the cost allocation for the AMI program as urged by UIU.

2. Standby Service and Buyback Rates.

In addition to several specific changes described below, the Joint Proposal includes a number of other changes to Con Edison's Standby Service, specifically: (a) an optional bill credit available to export-only SC 11 Buyback customers as a payment for reliable generation during specific summer months; (b) the ability for standby customers to make an optional one time up-front lump sum payment to cover O&M expenses and property taxes associated with interconnection costs instead of making payments through an annual surcharge; (c) the implementation of the Company's multi-party offset tariff to permit multiple customers, potentially in multiple buildings within a campus, to use a common DER to offset their usage, provided that the customers are connected to the generating facility by a common thermal loop; and (d) the implementation of a standby rate pilot program designed to encourage CHP and battery storage implementation on the Con Edison distribution system. These provisions are consistent with our recognition in the REV Track Two Order that DERs provide system benefits, and

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<sup>79</sup> Staff Post Evidentiary Hearing Brief, p. 2.

they will encourage customers to actively engage with the utility to contribute value to the distribution grid. Such engagement should result in reduced T&D infrastructure investment and lower bills for customers. For these reasons, the provisions are adopted.

a. Minimum Monthly Charge for Customers Exempt from Standby Rates.

Certain generation customers are provided an exemption from standby rates in order to encourage the DER technologies on which those customers rely. The Joint Proposal recommends further modification to the Minimum Monthly Charge (MMC) - Contract Demand amount by providing a one-time reduction in the MMC after an exempt generator commences service under non-standby rates. This provision is intended to allow customers to realize an immediate benefit from installed standby-exempt distributed energy resources. Without this provision, a customer that has DER installed must wait 18 months to receive an MMC reduction based on the customer's DER load reduction. Accordingly, we adopt this recommendation.

b. Exemption from Standby Rates.

Over time the Commission has expanded the types of projects which could claim an exemption from standby rates.<sup>80</sup> In doing so, it has been our intent to use the exemption to provide an incentive to spur installation of new technologies. In this order, we continue to do so by adopting the suggestion in the Joint Proposal to identify battery storage (up to 1 MW of inverter capability) as another type of project that could claim an exemption from standby rates. We also adopt the proposed new requirement that CHP systems eligible for this exemption must

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<sup>80</sup> Case 14-E-0488, Standby Rate Exemptions, Order Continuing and Expanding the Standby Rate Exemptions (April 20, 2015).

operate with NOx emissions no greater than 1.6 lbs/MWh (with exceptions to grandfather existing projects or projects already permitted at 4.4lbs/MWh).

The addition of these battery projects to the exemption list and the modification of the eligibility requirements for fossil fuel-burning technologies advance the goals of our REV program by supporting the new battery storage technology and, in furtherance of New York State's environmental goals, by encouraging CHP systems that can operate at reduced NOx emission levels. The recommendations here are also consistent with our REV Track One order in which we directed Staff to report to the Commission regarding the status of emission regulations applicable to distributed generation, and where we anticipated consideration of further mitigation measures beyond New York State Department of Environmental Conservation 6 NYCRR Part 222 regulations to avoid or mitigate the potential for harmful local emissions.<sup>81</sup>

c. Reliability Credit

The current version of the Company's Standby Rate tariff includes a Performance Credit that the customer can apply to its standby rate bills. This Performance Credit is based on the minimum electric capacity that the customer's generating equipment reliably supplies, up to the customer's maximum load that Con Edison may be expected to serve under the standby rate tariff, that is, the customer's Contract Demand. If, between measurement periods, the minimum performance of the customer's generating equipment improves, the resulting Performance Credit for the customer will be greater. If the minimum operation of the customer's equipment deteriorates, the credit decreases. If

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<sup>81</sup> Case 14-M-0101, REV Proceeding, Order Adopting Regulatory Policy Framework and Implementation Plan ("Track One Order"), (February 26, 2015), p. 43.

the minimum output of the generating equipment decreases so that it equals zero, the Performance Credit falls to zero.

For purposes of the current Performance Credit, the calculation for the credit is restricted to the customer's minimum generation output, which must be metered using an approved meter, up to a maximum of the customer's potential Contract Demand. Instead, the Track Two Order requires that Con Edison implement a Standby Reliability Credit derived from the difference between the customer's Contract Demand and its maximum net load. The maximum net load is measured as the maximum demand in kW delivered by the Company to the customer during the measurement period, and takes into account customer measures to reduce load.

The Performance Credit and the Reliability Credit are each based on metered data obtained during a specified measurement period. For the current Performance Credit, the measurement period is from June 15 through September 15 of each year. The Joint Proposal recommends that the Reliability Credit replace the current Performance Credit and that the measurement period run from June 1 to September 30. While there is no objection to enlarging the measurement period back from June 15

to June 1,<sup>82</sup> four parties object to the extension of the measurement period from September 15 to September 30.<sup>83</sup>

Objection - RiverBay, et al. 1. In our Track Two Order, we directed all utilities except Con Edison to file tariff revisions to implement a reliability credit as discussed in that order.<sup>84</sup> For Con Edison, such modifications were to be incorporated into the rate filings for these cases. The proposal by Staff in its direct testimony to change from a Performance Credit to a Reliability Credit implements that directive from our Track Two Order. The parties opposing the alteration of the measurement period emphasize that this change is not required, or even discussed in the Track Two Order. They argue that extending the measurement period to September 30 will conflict with the ability for standby customers to provide heat to residential buildings on October 1, if called upon to do so, as required by statute.

As RiverBay describes it, the shift from summer to winter operation requires it to shut down its electric generating equipment for several days in late September. If the

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<sup>82</sup> Although RiverBay initially asserted its objection to both the extension of the measurement period back to June 1 and its extension forward to September 30, it conceded at the time of the evidentiary hearing that it was interested in only the adjustment to the end date for the measurement period in September. Transcript of November 2, 2016, pp. 393-394.

<sup>83</sup> RiverBay post-hearing reply brief at 1; E Cubed post-hearing reply brief at 2, Digital Energy Corp post-hearing reply brief at 2; Energy Concepts Engineering P.C., Joint Proposal, signature page. The party expressing the strongest objection to the shift of the measurement period from September 15 to September 30 is RiverBay Corporation, a very large residential cooperative located in the Bronx and commonly known as "Co-op City".

<sup>84</sup> Track Two Order, pp. 131-132. For Con Edison, the Track 2 Order directed the Company to incorporate the reliability credit provisions into these rate cases.

measurement period is not extended beyond September 15, this shutdown, and the coincident supply by Con Edison to meet the entire RiverBay demand, will not occur during the measurement period and thus will have no impact on RiverBay's ability to earn the Reliability Credit. However, if the measurement period is extended to September 30, the shutdown of RiverBay's equipment, and the need to be supplied entirely by Con Edison, will occur during the measurement period. According to RiverBay, this will reduce the Reliability Credit to RiverBay and, under some circumstances, eliminate it. RiverBay, therefore, urges that the proposal to shift the end date for the measurement period for the "reliability credit" from September 15 to September 30 be rejected. If this proposal is not rejected now, RiverBay urges the Commission to convene a process "to develop a measurement rule that will allow residential and other customers subject to similar requirements to continue to earn a credit against their Standby rate bills."<sup>85</sup>

Digital Energy Corp. (Digital Energy) and Energy Concepts Engineering PC (Energy Concepts) join RiverBay in this objection and also assert that the Standby Rate proposal would improperly impose metering costs on Standby Rate customers. Digital Energy argues that the metering required from Standby Rate customers would not be needed to implement the Reliability Credit. Such metering would be useful, however, to Con Edison, and, therefore, Digital Energy argues that the costs of providing this metering equipment should be paid by the Company.<sup>86</sup> Staff responded to Digital Energy's proposal by asserting that the data from such metering provides monitoring

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<sup>85</sup> RiverBay, et al. Statement in Opposition (October 13, 2016), p. 2.

<sup>86</sup> October 17, 2017 Digital Energy Corp. Statement in Support, p. 2.

ability for operations and planning purposes, provides insight into customer-sited DER, which will be valuable for REV and other Commission proceedings, and will likely be needed in the future as dispatch and settlement of payments for DER becomes increasingly granular.<sup>87</sup>

The proposal to introduce a Reliability Credit with a modified measurement period was made in Staff's direct testimony. In its Statement in Support, Staff emphasizes that the intent in its proposed definition of the measurement period for the Reliability Credit is to align the measurement period with the summer period already contained in the Company's tariff for demand-billed customers. Addressing the issue raised by RiverBay, Staff emphasizes the operational flexibility that RiverBay and other standby rate customers have to manage the operations of their facilities. With this capability, it is expected that these customers will balance achieving the Reliability Credit with other operational requirements applicable to their facility. Indeed, as Staff emphasizes, a standby rate customer, such as RiverBay, may earn a standby rate credit even if its generating facilities are entirely off line.<sup>88</sup>

Objection - RiverBay 1 - Discussion. We recognize that the establishment of a measurement period that extends through September may require a customer to adjust its operations to maximize its opportunity to receive the Reliability Credit. Customers should understand, however, that these adjustments are needed to assure that our programs remain fundamentally sound and capable of delivering the intended benefits. In this specific instance we agree with Staff that there is a value in establishing a consistency between the

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<sup>87</sup> Staff Statement in Support, pp. 39-40.

<sup>88</sup> Staff Statement in Reply to Opposition (October 21, 2016) (Staff Statement in Reply), p. 12.

measurement program to be used for the Reliability Credit and the specification of the summer period for the Company's other demand billed customers. We also agree that the extension of the measurement period to the end of September better captures the full extent of the summer period when the need to control demand is the greatest. The purpose of the Reliability Credit is to incent standby Rate customers to favor demand reducing measures during the critical summer period. The shift from an abbreviated summer period that ends on September 15 to a measurement period that encompasses the full summer season extends the period in an important way to better assure that the non-standby rate customers, who will be paying for this incentive, will get the intended benefit from this program.<sup>89</sup>

While the credit is intended to shape the actions of the customer, we also recognize that actions to adapt fully to the change in the measurement period that Staff is proposing will take time. The decision in the Joint Proposal to recommend that the shift in the measurement period be deferred until Rate Year Two is wise, and we adopt it. The extra time will no doubt afford any affected customers a better opportunity to fully understand the difficulties being created by extending the period. We are not directing at this time that a formal process or collaborative be instituted to evaluate any further information that will become available during Rate Year One and in advance of the change now timed to Rate Year Two. Nevertheless, we urge Staff and the parties to examine closely the experience that standby rate customers have and the extent to which these customers qualify for and are credited with the Reliability Credits that are generated.

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<sup>89</sup> In addition, this will make the measurement period for Con Edison the same as it is for other New York utilities.

With respect to Digital Energy's argument that metering charges should be paid by the Company and not by the customer, we note, as Staff did, that we have imposed such charges on the customer in at least one other instance, and, for the reasons stated by Staff, it is appropriate to do so here.<sup>90</sup>

d. Standby/export pilot.

The Joint Proposal recommends the initiation of a standby rate pilot program to provide an extension of a standby rate exemption and to test new standby rate designs. The pilot will consist of two options. Under the first option, qualifying customers (Exemption Customers) can elect to remain on non-standby rates for up to ten years. Projects may qualify to participate if they are new or expanded Combined Heat and Power (CHP) projects with no less than 1 MW per interconnection or battery projects with no less than 50 kW of storage per interconnection.

Under the second option, qualifying customers (Pilot Customers) will be charged rates for standby service that will be developed by a collaborative. In addition, all Exemption Customers will see such rates calculated for their usage on a "shadow billing" basis. The Company will convene this collaborative on or about February 1, 2017. The rate designs developed by the collaborative will be filed with the Commission for its approval. The rates for Pilot Customers will test options for customers to assume a reliability risk, develop time and locational-variant Daily As-Used Demand pricing, and test new export delivery rates for SC 11 customers with onsite generation. Both Exemption and Pilot Customers will provide, at their cost, revenue-grade metering with communications capabilities that are compatible with Con Edison's meter reading

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<sup>90</sup> Tr. 374-375.

systems to measure the output of their generation or battery storage assets.

The standby/export pilot will provide an excellent opportunity to test innovative standby rate design concepts, while spurring cleaner and more efficient CHP and battery energy storage development in New York City. The innovative rates to be implemented as part of this pilot align with the direction we gave for the future of both standard and standby rate design in our Track Two Order. The metering and customer data reporting requirements will ensure that Staff, Con Edison, and other stakeholders will have an opportunity to learn about the performance characteristics of DER in operation by providing high-quality data. Further, we anticipate that, in spurring significant development of new CHP and battery energy storage within a relatively short timeframe, engagement between pilot participants and local New York City permitting agencies will result in a streamlined and standardized review and approval process for DER going forward, which may provide benefits statewide.

#### H. Gas Revenue Allocation/Rate Design.

##### 1. Revenue Allocation.

The gas revenue allocation in the Joint Proposal mirrors that of the electric revenue allocation; however, the Joint Proposal relies on Con Edison's 2014 Gas ECOS Study results as a guide for revenue allocation. To mitigate the impacts of cost shifts indicated by the Company's ECOS Study, the parties agreed to phase in the ECOS Study results by reflecting one-third of the class specific deficiencies or surpluses in each rate year. As with electric, reassigning one-third of the surplus or deficiency moves cost responsibility in the correct direction but mitigates the bill impacts that would

otherwise result from eliminating a greater share of the deficiencies.

UIU recasts its objections to the electric ECOS Study as objections to the gas ECOS Study. Specifically, UIU challenges the use of a "minimum system" methodology and argues that the minimum system defined by the Company includes costs for facilities beyond those that are necessary to build a minimum system.<sup>91</sup> Here, as in the case of the same argument for the electric ECOS, Con Edison has asserted that UIU's proposed changes are inconsistent with Con Edison's current practices and the attributes of its physical plant. Again, Staff supports use of Con Edison's ECOS study over UIU's objections. For the reasons we outlined above in connection with our discussion of the electric ECOS Study, we must similarly reject the arguments here as they are asserted in opposition to the gas ECOS Study.

2. Rate Design.

a. Firm Delivery Rates.

To better align the rate structure for Service Classification (SC) 1 - Residential and Religious Firm Sales Service to the costs indicated in the ECOS Study, the Joint Proposal recommends an increase in the minimum charge. The Joint Proposal recommends phasing in the increase over the three-year term. The minimum charge increase was set at a level designed to produce bill impacts that are similar, on a percentage basis, for customers of all usage levels. The minimum charge is not modified for any other service class.

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<sup>91</sup> Statement of the Utility Intervention Unit on the Joint Proposal (October 13, 2016) at 40-42. More specifically, UIU argues that distribution gas mains should be classified as 100% demand related in the ECOS study, and as an alternative the ECOS study should have used a minimum system analysis by which the costs associated with 1.5-inch steel and 2-inch plastic mains to classify customer related costs.

The Joint Proposal makes another change concerning the criteria for Con Edison's SC 2 Rate 1 and Rate 2 subclasses by determining eligibility based on load factor instead of heating versus non-heat. The change is appropriate to better align cost responsibility with customer usage characteristics.

b. Interruptible Delivery Rates.<sup>92</sup>

The Joint Proposal provides for a modest per therm rate increase for certain interruptible customers (SC 12 Rate 2 and SC 9 Rate C). For other interruptible customers, the rate is unchanged. The Joint Proposal includes a recommended definition of what constitutes non-firm revenues.

It is also recommended that the revenue requirement for each rate year reflect an annual base rate revenue imputation of \$65 million attributable to non-firm revenues. The Company would be allowed to retain 100% of the first \$65 million of non-firm revenues. If non-firm revenues are less than \$65 million, the Company will defer the amount of this shortfall and surcharge firm customers for that amount in the subsequent Rate Year. If non-firm revenues exceed \$65 million, it is recommended that the Company will begin to credit firm customers with 85% of the excess in the subsequent month.

Objection - UIU 5. In our 2014 Rate Order, non-firm revenues were imputed at \$65 million. The Joint Proposal suggests that the same level of imputation provides a reasonable estimate of what the non-firm revenues will be for the new rate plan. UIU challenges this recommendation, however, by asserting that the rates charged to SC 12 Rate 2 and SC 9 Rate C customers are too low.<sup>93</sup> It asserts that, if non-firm rates were higher for these customers additional revenues would be generated and

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<sup>92</sup> Revenues from interruptible rates are further addressed at Section B.2.c of the Joint Proposal.

<sup>93</sup> UIU Gas Rate Panel on the Joint Proposal 84-90.

would be used to further reduce the revenue requirement obligations of firm customers.

To buttress its argument that non-firm customers could be charged more, UIU directs our attention to the Company's initial filing in which a non-firm gas rate increase much larger than that agreed in the Joint Proposal was sought. The City of New York, and the New York Energy Consumers Council dispute the UIU assertions and outline several ways in which firm and non-firm customers use gas or an alternative fuel as well as the responsibilities they assume in connection with their gas service.<sup>94</sup>

Objection - UIU 5 - Discussion. We agree with NYC and NYECC that UIU has made no persuasive showing that there are similarities between firm and non-firm customers such that the rates for one group should arguably be similar to the rates for the other. Accordingly, on the present record, we must reject the UIU argument.

While the record before us does not support UIU's argument, the parties supporting the Joint Proposal recommend, and we agree, that the Company should conduct a collaborative to examine its interruptible gas rates and services. Through this collaborative, the parties will examine the value of interruptible service, the costs incurred by the Company to provide this service, and the costs incurred by customers to be eligible for interruptible service.<sup>95</sup> The Joint Proposal, adopted here, anticipates that the results of the collaborative will be filed with the Commission by December 31, 2018, and

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<sup>94</sup> City of New York Post-Hearing Brief at 8-9; October 21, 2016 Letter in Reply to UIU Initial Statement on the Joint Proposal at 1-2.

<sup>95</sup> Joint Proposal at Paragraph 0.4.

would include any recommended changes to interruptible rates or services.

c. Gas Balancing.

The Joint Proposal recommends several changes to the gas balancing provisions applicable to SC 9 gas customers, including power generators, and SC 20 Gas Marketers. These changes include: (1) increasing the unauthorized use charge to be consistent with the unauthorized use charges of other New York State utilities; (2) updating the daily cashout prices from a single index price to a weighted average of three index prices based on prior year's actual deliveries; (3) clarifying the definition of Operational Flow Order (OFO); and (4) changing the tariff to make clear that cashout prices and imbalance charges for all volumes above the first balancing tier or for any unauthorized use of gas during an OFO will be considered penalty gas unless such service is otherwise provided for in a contract between the Company and the customer. While there was no objection by any party to the first three of these changes, the fourth change drew strong criticism from at least one generator, Astoria Generating Company, L.P. (Astoria).

Objection - Astoria 1. In its comments on the Joint Proposal, Astoria explains that Con Edison offers balancing services to provide a means for customers:

- 1) to sell gas to Con Edison that they scheduled but did not use and
- 2) to buy gas from Con Edison that they used but did not schedule.<sup>96</sup>

Astoria explains that current tariff language plainly permits net deficiency or net surplus imbalances greater than

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<sup>96</sup> Letter from or on behalf of Astoria Generating Company, L.P. (November 10, 2016).

10% and they are not currently deemed an unauthorized use or penalty gas; and, that only gas taken after the Company has notified the customer that it must reduce or discontinue service is considered unauthorized use or penalty gas. It argues that a change in the tariff wherein all imbalances after the first 2% are considered penalty gas will unnecessarily limit generator flexibility and the generator's opportunity to recover the costs of imbalance gas in its bids in the wholesale energy market.<sup>97</sup> According to Astoria, the "imbalance penalty proposals have nothing to do with reliability but instead everything to do with cost shifting between gas and electric customers."<sup>98</sup> Accordingly, Astoria asks the Commission to recognize that the proposed tariff change is unnecessary.

In reply comments, Staff responds to Astoria by emphasizing that, under the current tariff, generators can recover in their gas bids all of their balancing charges (i.e. the charges for imbalances less than 2%), and this opportunity is unaffected by the proposed tariff change. Staff recommends that Astoria's comments be disregarded because generators may enter into contracts with Con Edison that provide for balancing services such that gas use above the first tier is not considered to be penalty gas.

Notwithstanding Astoria's argument, Staff asserts that the purpose of these tariff provisions is to "neutralize any economic incentive for generators that could adversely impact the reliability and integrity of the natural gas system." The tariffed daily balancing tiers are penalty tiers, not additional charges for additional services.<sup>99</sup> Finally, Staff also asserts

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<sup>97</sup> Id.

<sup>98</sup> Id.

<sup>99</sup> Department of Public Service Staff Letter in Response to Astoria (November 21, 2016).

that Astoria's arguments ignore a recent FERC order that confirmed the distinction between ordinary balancing charges (as, for example, charges for use within the 2% band), which should be recoverable through the wholesale NYISO tariff and market, and charges based on unauthorized natural gas use or penalty natural gas use, which should not.

Objection - Astoria 1 - Discussion.<sup>100</sup> This issue is brought to us for the second time in two months.<sup>101</sup> We conclude here, as we did in last month's order, that the proposed tariff change merely clarifies that balancing charges for imbalances outside the band should be treated as penalties. Doing so will better assure that the charges achieve their intended purpose to act as a clear and unmistakable incentive for generators to manage imbalances and thereby to protect the integrity of the system. In addition, we note that the proposed tariff change explicitly recognizes the opportunity for customers and the utility to negotiate individual contracts by which the generator can, for an additional payment, obtain the utility's agreement that imbalances greater than 2% will not be treated as unauthorized or penalty natural gas use.

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<sup>100</sup> As Staff points out, the Astoria objection was first voiced in a letter/comment dated November 10, 2016 and was, therefore, received several days after our November 2 and November 3, 2016 evidentiary hearings. In this scenario, Astoria's assertions could not be subject to cross-examination or otherwise tested in the adversarial process in this case and should be afforded limited weight. Were we inclined to look more favorably on Astoria's arguments, we would be more concerned with this procedural point.

<sup>101</sup> Cases 16-G-0058 et al., KeySpan New York - Gas Rates, KeySpan Long Island - Gas Rates, Order Adopting Terms of Joint Proposal and Establishing Gas Rate Plans (December 16, 2016).

I. Performance Metrics.

The Joint Proposal recommends the continuation of several negative and/or positive revenue adjustments applicable to Con Edison's electric service, gas service, and customer service operations. Staff and the Company were the only parties to offer testimony on this topic, and no party expressed an objection to the programs as described in the Joint Proposal.

The Electric Service Reliability Performance Mechanism is described in Appendix 14 to the Joint Proposal. It identifies seven performance metrics by which the Company's electric reliability will be measured.<sup>102</sup> These metrics do not significantly modify the existing performance metrics established for the current rate plan. Total negative revenue exposure for Rate Year One, Rate Year Two, and Rate Year Three of the proposed rate plan is \$110.5 million, \$110.5 million and \$115.0 million, respectively.

With regard to electric safety standards, the parties have proposed and the Joint Proposal describes modifications to the existing Underground Structure Inspections and Repair

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<sup>102</sup> These metrics are: threshold standards, consisting of system-wide performance targets; a major outage metric; a remote monitoring system metric; a program standard for repairs to damaged poles; a program standard for removal of temporary shunts; a program standard for repair of "no current" street lights and traffic signals; and a program standard for over-duty circuit breakers.

program that will create an enhanced program.<sup>103</sup> This proposed program would be the Company's Eight-Year Underground Inspection Cycle Pilot, and it is described in Appendix 15 to the Joint Proposal.

The parties' recommendation for gas safety performance metrics includes both negative and positive revenue adjustments.<sup>104</sup> For the new rate plan, the parties have agreed to continue the program using the same metrics, although adjustments have been made in the targets for some of these metrics. The Company's exposure to these negative adjustments is 150 basis points per year.<sup>105</sup> In the 2016 rate year, the maximum exposure for the Company under this program was \$54 million. In 2017, 2018 and 2019, the 150 basis point maximum exposure will equal \$60 million, \$66 million and \$73.5 million, respectively. The Company would also have an additional exposure of \$3.3 million based on the results from a survey to

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<sup>103</sup> Specifically, the current five-year inspection cycle for the underground (UG) system has been changed to an eight-year cycle. Funding saved by extending the inspection cycle will go towards enhanced inspection work, more mobile stray voltage scans, and reductions in repair backlogs. Instead of the previous practice to do just a visual UG inspection, Con Edison crews or contractors will now scan the UG facilities in structures with an infrared camera, take a 360 degree picture of the inside of the UG structure, and take readings to detect defects that are not noticeable with a visual inspection.

<sup>104</sup> The negative revenue adjustments are associated with: Con Edison's leak management/emergency response/damages; gas main replacement; gas regulations performance; and customer satisfaction.

<sup>105</sup> In the Appendix 16 to the Joint Proposal, the parties agree that the revenue requirement equivalent of a basis point on common equity capital under the Joint Proposal is estimated to be \$400,000, \$440,000, and \$490,000 in Rate Years One, Two and Three, respectively.

measure customer satisfaction with the handling of calls to the Gas Emergency Response Center.

The positive revenue adjustments specified in Appendix 16 to the Joint Proposal would provide a supplemental return for the Company if it reduces the year-end total backlog of gas leaks below the annual targets as set forth in the Appendix. The recommendations in the Joint Proposal would also provide a positive revenue adjustment for the replacement of leak prone pipe greater than the targets associated with the negative revenue adjustment.

The parties' recommendations for customer service performance mechanisms are set forth in Appendix 17 to the Joint Proposal. These recommendations continue the existing metrics and associated thresholds below which the Company incurs negative revenue adjustments. These metrics are: Commission Complaints, Call Answer Rate, separate Satisfaction Surveys of Callers, Visitors and Emergency Contacts, and Outage Notification. The performance targets for each measure also are increased, except the Outage Notification mechanism, which remains unchanged. The Company's maximum exposure from these customer service performance mechanisms remains at \$40 million.

In each of these four programs, the Joint Proposal makes incremental adjustments to improve the incentive they provide for performance improvements by Con Edison. We find these adjustments will enhance the mechanisms and therefore approve them as proposed.

## J. Additional Electric Provisions

### 1. System Peak Reduction Programs, Energy Efficiency and Electric Vehicle Programs

In the Joint Proposal, it is recommended that the Company be directed to continue or to expand existing and to

implement new system peak reduction (including an electric vehicle component) and energy efficiency programs. As a group and for purposes of the Joint Proposal, these programs are identified as New Programs. As described in the Joint Proposal, the New Programs must be cost effective on a portfolio basis and meet a Societal Cost Test BCA of 1.00.

The approach to system peak reduction and energy efficiency described in the Joint Proposal moves the Company toward integrating efficiency with demand reduction and increasing the total amount of efficiency activity. The program allows for numerous ways in which the Company can influence peak load at both the bulk and distribution levels. In addition, the integrated approach reflects the Commission's desire for the Company to approach energy efficiency and peak load reduction with an enterprise-wide priority that filters through into many areas of utility activity. For these reasons, the provisions are adopted.

a. System Peak Reduction Program.

This program is described as having two components - the System Peak Reduction Program and the Electric Vehicle program. In the former, the Company would work directly with customers and market partners to offer several technologies to reduce peak demand. In developing these projects, the Company's goal will be to achieve one-half of the cumulative System Peak Reduction Program target over the three years of the rate plan through advanced technologies such as localized battery storage, packaged systems, thermal storage and advanced building management systems/controls. The Joint Proposal also specifies system peak reduction targets in MW. These MW reduction targets cumulate the system peak reduction from the System Peak Reduction Program, the Company's Energy Efficiency Program and its Energy Efficiency Transition Implementation Plan (ETIP), and

the Electric Vehicle program. The combined total target is specified to 43.5 MW, 65.5MW, and 94.0 MW in Rate Years One, Two, and Three, respectively.

With respect to the Electric Vehicle program, it is recommended that the Company, within 30 days of the date of this order, commence discussions with interested parties on the development of new service classifications, new rates within existing service classifications, incentives, and/or pilot programs for electric vehicles. The intent of these efforts will be to incentivize off-peak charging of electric vehicles. Such an approach will allow the Company to consider ways to improve its overall system efficiency. For this reason, the provision is adopted.

b. Energy Efficiency Program

In addition to the System Peak Reduction program, the Joint Proposal also describes the Energy Efficiency portfolio of programs that the Company will implement. We approve these programs, as they are expected to increase efficiency by responding to locational needs, bundling resources with DER providers, and leveraging market-based approaches including market solicitations, time-variant pricing, and other market transformation efforts. The Joint Proposal also details energy efficiency targets in GWh which are expected to be achieved in each year of the three-year plan. These targets aggregate the GWh savings from the Energy Efficiency programs and from the System Peak Reduction programs. This combined gigawatt-hour target is specified in the Joint Proposal as 178 GWh, 270 GWh, and 391 GWh in Rate Years One, Two and Three, respectively.

c. Earnings Adjustment Mechanisms (EAMs)

In the Joint Proposal, the parties recommend that the Commission approve two Program Achievement EAMs, and three outcome-based EAMs. The Program Achievement EAMs would be,

first, for meeting or exceeding the target levels set in the Joint Proposal for incremental GWh savings and, second, for meeting or exceeding the target levels set in the Joint Proposal for incremental system peak (MW) reduction. At the minimum threshold for Earnings Adjustment, the Company could receive \$8.8 million over the three years of this rate plan under these two EAMs. At the target and maximum levels, the Company's shareholders could receive \$24.7 million and \$49.8 million, respectively, over the three years of the rate plan.<sup>106</sup>

As set forth in the Joint Proposal, Con Edison would seek the EAM each year through a compliance filing on March 31 of 2018, 2019 and 2020, and could begin collecting the EAM 45 days after this filing, subject to adjustment by the Commission if the Company's calculation should be corrected. The Joint Proposal also defines a process to be used when the cost to achieve either program in Rate Year Two or Three is more than 10 percent greater than the budget for the program on a unit basis.

Finally, the discussion of New Programs in the Joint Proposal includes the establishment of the expenditure limits for the Energy Efficiency Program, for the System Peak Reduction Program, and for the Electric Vehicle Program. It also identifies how program costs and earned EAMs and the portion of these programs that will be paid by the New York Power Authority.<sup>107</sup>

The Joint Proposal identified the three outcome-based EAMs as:

1. An Energy Intensity EAM to incent Con Edison to help customers to reduce energy usage;

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<sup>106</sup> Joint Proposal at 79.

<sup>107</sup> Id. at 81-82.

2. A DER Utilization EAM to encourage Con Edison to expand the use of Distributed Energy Resources (DERs) in its service territory; and

3. A Customer Load Factor EAM to incent Con Edison to improve the load factor for poor load factor customers.

While the Joint Proposal described briefly each of these EAMs, the full development of these mechanisms could not be completed prior to the execution and filing of the Joint Proposal. Thus, the Joint Proposal does not provide a description of the metric to be used for each EAM, the measurements that would be used to quantify achievement of that metric, or the amount of the incentive available to the Company from achievement of that metric. Rather, the details for these mechanisms were deferred to a collaborative that began work in September 2016 and which concluded with the filing of Comments Supporting Resolution of Outcome-based EAM Collaborative Issues (Consensus Report) on November 1, 2016.

In the Consensus Report, the level of the incentive is specified and, pursuant to the Report, the incentives for minimum performance, for performance at the target, and for maximum performance in Rate Year One are:

| \$ Million                   | Min  | Target | Max  |
|------------------------------|------|--------|------|
| DER Utilization              | 0.06 | 1.11   | 2.72 |
| Residential Energy Intensity | 0.11 | 0.39   | 0.95 |
| Commercial Energy Intensity  | 0.20 | 0.72   | 1.76 |
| TOTAL                        | 0.37 | 2.22   | 5.43 |

The incentives increase in Rate Year Two and Rate Year Three such that the maximum incentive for the outcome-based EAMS

in Rate Year Three will be \$30.59 million.<sup>108</sup> If the Company qualifies for the target incentive or for the maximum incentive in all three years of the rate plan, the total incentive awarded to the Company will be \$27.25 million (target incentive) or \$52.70 million (maximum incentive).

No party objected to the development or description of the three outcome-based EAMs in the Joint Proposal or to the collaborative process suggested in the Joint Proposal to establish the metrics, measurement and target details for these EAMs.<sup>109</sup> The Consensus Report was prepared and filed as stipulated in the Joint Proposal, and this filing was followed by an opportunity for those opposing the consensus view to file comments and reply comments. At the time of its filing, this consensus view was affirmatively supported by the Company, Staff

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<sup>108</sup> Joint Proposal at 79

<sup>109</sup> In the course of the collaborative, the parties agreed that the Customer Load Factor EAM would not be amenable to introduction at this time. Instead, the parties determined that the Company's efforts regarding this EAM in Rate Year One should: (i) determine low load factor customers whose peak demand is coincident with network or local load area demand, (ii) identify low load factor customers belonging to a variety of different strata, (iii) conduct analysis to determine possible programs and solutions applicable to such customers, and (iv) develop an understanding of impacts of the customer load factor metric definition, and potential program and solutions on the environmental goals. The parties concluded that these efforts will help inform development of the customer load factor metrics for RY2.

and five other parties.<sup>110</sup> Two parties that participated in the collaborative stated that they neither supported, nor opposed the Consensus Report.<sup>111</sup> Two parties, the City of New York and Consumer Power Advocates (NYC and CPA, respectively, and together, the EAM Consensus Opponents) oppose the Consensus Report through four objections.

Objection - NYC 1. The EAM Consensus Opponents voice three objections to the DER Utilization EAM. First, they assert that special case resources (SCRs), which are developed in response to a New York Independent System Operator (NYISO) initiative to stimulate the development of projects to reduce the system peaks, should not be included in the DER utilization metric. The EAM Consensus Opponents seek to remove these SCRs from the DER totals because the SCR program was developed and is managed by the NYISO, and Con Edison is not responsible for any actions that would stimulate or discourage the development of new SCR projects. As stated by CPA, that party "objects to providing additional earnings to Con Edison for the success of a program which is entirely beyond its control."<sup>112</sup>

Second, in developing the DER Utilization Outcome-based EAM, the collaborative participants recognized that a common measurement parameter would be required, and thus developed a kilowatt-hour parameter. To make the calculations

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<sup>110</sup> The parties joining the consensus were: Consolidated Edison Company of New York, Inc., New York State Department of Public Service, Environmental Defense Fund, Association for Energy Affordability, Inc., Acadia Center, Pace Energy and Climate Center, and Natural Resources Defense Council.

<sup>111</sup> The parties neither supporting, nor opposing the consensus were County of Westchester and New York Energy Consumers Council.

<sup>112</sup> Letter from CPA to the Secretary (November 4, 2016).

to convert capacity and output to kilowatt-hours on an annualized basis, the Consensus Report relied on Statewide or industry-wide capacity factors. The Consensus Opponents do not challenge the decision to convert the output for each DER into annualized megawatt-hours produced so that DER technologies could be compared and aggregated. They do, however, oppose the use of Statewide, generic, or industry-wide capacity factors in the calculations.<sup>113</sup> In their view, the payment of any DER utilization EAM should be based on actual measurements at the DER or a reasonable sampling of such actual measurements rather than assumptions as used in the Consensus Report.

The third objection of the EAM Consensus Opponents regarding the DER utilization EAM is that the minimum threshold for an incentive payment under this EAM is too low and will reward Con Edison for DER projects that are well under way and already identified in the Company's Distribution System Implementation Plan (DSIP) or interconnection queue.

Objection - NYC 1 - Discussion. The focus of an "outcome-based" EAM will be on the achievement of the associated metric without regard to the source of the stimulus that motivates a resource provider to bring a project to completion. In the case of the DER utilization EAM, the DERs needed to meet the EAM's metric may come from any source. If a project boosts DER utilization, it should count in the measurement of that utilization for purposes of the EAM even if the project counts as an SCR project in the NYISO's demand response program.

In response to the second objection of the Consensus Report Opponents, the Consensus Report sponsors recognize that the use of statewide, generic, or industry-wide capacity factors to convert capacity into kilowatt-hours may not be appropriate.

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<sup>113</sup> City of New York Comments in Opposition to Proposed Outcome Based EAMs, November 7, 2016 at 7-9.

They emphasize, however, that the current figures from the report are only intended for use in Rate Year One and that the amounts which the Company could earn from the DER Utilization EAM in that year are relatively small.

We agree and note that our approval for the use of these more generic capacity factors in 2017 is not intended to discourage in any way the development and use of capacity factors based on actual measurements of DER resources in the Con Edison service territory.

In response to the third challenge from the Consensus Report opponents argument that the threshold for an award through this EAM is too low, the Consensus Report sponsors assert that the DER Utilization targets represent a significant increase in overall incremental, new DERs relative to previous years. For example, they observe that the proposed target assumes a growth in CHP development from approximately 3.1 MW per year in 2015 and 2016 to over 21 MW in 2017.<sup>114</sup> The Consensus Report sponsors also assert that the Company's interconnection queue is populated with many projects that have been in the queue for many years and are not expected to progress towards development and operation in the near term.

We agree with the Consensus Report sponsors that the minimum target for the DER Utilization EAM (150,000 MWh) as set forth in the Report is not a "business as usual" goal and can be reliably adopted as a meaningful 2017 goal for this EAM.

Objection - NYC 2. The EAM Consensus opponents assert two objections to the Energy Intensity EAM as proposed in the Consensus Report. First, the opponents observe that, if the recommendations of the Joint Proposal are adopted, Con Edison

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<sup>114</sup> Reply Comments by Supporting Parties Regarding Outcome-based EAM Collaborative Issues, p. 9.

could benefit under both the Energy Efficiency program based EAM<sup>115</sup> and under the Energy Intensity Outcome-based EAM for the same energy efficiency measures. They assert that this is a double recovery in the Company's favor and should be eliminated.

The second objection raised by the Consensus Opponents regarding the Energy Intensity Outcome-based EAM is voiced specifically by NYC. To implement this EAM, the Consensus Report considers the ratio of residential sales to residential customers to measure energy intensity for the residential sector and the ratio of commercial sales to private employment to measure energy intensity in the commercial sector. NYC objects to the Consensus Report's failure to include workers from the public sector as part of the denominator in the calculations of commercial energy intensity for this EAM, even though the estimate of commercial energy use in the numerator includes energy use at public buildings. Because of this omission, NYC expresses concern that this may award higher shareholder incentives than are appropriate.

Objection - NYC 2 - Discussion. It is true that both the Energy Efficiency Program Achievement EAM and the Energy Intensity Outcome-based DER Utilization EAM are achievable through MWh savings. The Consensus Report sponsors emphasize, however, that the MWh savings that may prompt a payment to the Company under the Energy Efficiency Program-based EAM in isolation would not result in reductions large enough to trigger an Energy Intensity payment, specifically indicating that achieving an EAM for Energy Intensity, even at the minimum level would require energy savings far above the savings resulting

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<sup>115</sup> The Energy Efficiency Program-based EAM is described in the Joint Proposal at 77-80.

from the proposed incremental Energy Efficiency programs.<sup>116</sup> In the absence of significant overlap, we would not require any further refinement in the metric and measurement designs for the Energy Intensity Outcome-based EAM in 2017.

Objection - NYC 3. The City objects to the Commercial Energy Intensity EAM, and specifically to the failure to include public employees in the megawatt-hour per worker ratio by which the metric is calculated. The Consensus Report supporters emphasize that the metric of sales in MWh/number of private sector workers proposed to be used for this EAM was used to develop the trend line from 2011 through 2016 from which the EAM targets were derived. They argue that, so long as the same methodology is used to derive the ratios in the trend line and the ratio for the target, the City's objection does not challenge the suitability of the proposed targets in 2017.

Objection - NYC 3 - Discussion. The City's argument fails to note that a great percentage of its employees and of State employees working in the Con Edison service territory work in spaces served by the New York Power Authority (NYPA), and NYPA's energy sales are not included in the commercial sales figure used in the numerator for the energy intensity metric. Because NYPA sales are excluded in the numerator for the

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<sup>116</sup> To measure energy intensity, the Consensus Report constructs trend lines to show the expected "business as usual" scenario for energy consumption in Service Classifications 1, 2 and 9. These trend lines include energy savings from existing programs. For Con Edison to earn the minimum Energy Intensity Outcome-based EAM, sales would need to decrease by almost 400 GWh. In comparison, the Program-based efficiency target, beyond the amount already included in the Company's ETIP, is 20 GWh. Thus, if the Company performed at the minimum level for the Program-based efficiency EAM, it would still need to achieve approximately 380 GWh of energy savings before it could benefit from the minimum Energy Intensity Outcome-based EAM.

calculation of the energy intensity statistic, the better practice would be to exclude public employment from the denominator.

For the reasons stated, we cannot adopt the City's suggestion that the denominator in the energy intensity metric should be increased by adding in the number of public employees in the Con Edison service territory. Here again, however, the decision we reach in this order is only for purposes of the Energy Intensity Outcome-based EAM in use for 2017. With more time and more experience, we would expect a natural process of refinement to improve the methodology to be used in 2018 and later.<sup>117</sup>

Objection - NYC 4. Apart from the above-described three programmatic objections to the outcome-based EAMs, New York City also objects to the requirement that NYPA must pay (and will pass on to its municipal and public customers in the Con Edison service territory) an 5 percent allocation of the Program Achievement-based EAMs related to peak reduction and the full class allocation (approximately 11 percent) of the outcome-based EAMs. The City contends that it is not a direct beneficiary of the programs in which these EAMs provide an

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<sup>117</sup> The Joint Proposal defines a relatively specific process for the development of the Consensus Report. As implemented, the consensus process and the Consensus Report only addressed those issues for 2017. From the Comments received, it appears that the parties intend to return to the collaborative process in 2017, and we encourage them to do so. We would expect this process to begin with an initial meeting on or about June 1, 2017 and, if a consensus is reached, with the submission of a 2017 Consensus Report on or about September 1, 2017. Comments on the 2017 Consensus Report or, if there is no consensus on which a report could be based, on the issues discussed in the collaborative, should be filed by September 15, 2017 and Reply Comments by October 1, 2017.

incentive and that it already pursues a number of initiatives which contribute to DER utilization or to a reduced energy use intensity and that it receives no compensation for these efforts.<sup>118</sup> Staff responds by asserting that NYPA's efforts in this regard are within the business-as-usual baseline for which special compensation or an economic benefit to NYPA (or to Con Edison) would not be justified. Staff further asserts that these outcome-based EAMs are intended to incent both DER utilization and reduced energy intensity beyond these baseline levels.<sup>119</sup>

Objection - NYC 4 - Discussion. We agree with Staff, and find the assessment of a full share of the costs of these EAMs to NYPA appropriate. NYPA's efforts towards the goals for these outcome-based EAMs are a part of the baseline, and not part of the effort for which these EAMs are intended to provide an incentive. Accordingly, we cannot conclude at this time that these baseline efforts supply a rationale for excusing NYPA from paying its full share. Further, the utility actions that the EAMs are designed to achieve will provide benefits from reduced infrastructure investment and from the reduction in the use of fossil fuels. The benefits of these outcomes will impact all customers in the service territory, and therefore we find that it is appropriate for NYPA customers to share in these costs.

Conclusion. We find that the Consensus Report filed herein was prepared as contemplated in the Joint Proposal. The Report reflects the collaborative work of the Company, Staff, and several parties. The result of this collaboration is the development of the Rate Year One metrics and measurement

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<sup>118</sup> City of New York Statement in Support of Joint Proposal at 12.

<sup>119</sup> Staff Statement in Reply to Opposition (October 21, 2016) (NYC Statement in Support), pp. 13-14.

procedures for two of the three outcome-based EAMS recommended in this case. The metrics and measurement procedures described in the Consensus Report are reasonable and consistent with our objective to set outcome-based goals and our observation that EAMS can be used to further incent the utilities to seek increased system efficiency and reduced energy consumption. As discussed above, we have reviewed the objections made to certain aspects of the Consensus Report, and these objections do not persuade us to modify its recommendations. Consequently, we approve of the recommendations made therein and direct that these recommendations be considered a part of the Joint Proposal, the terms of which are adopted by this order and enforceable as such.

## 2. Distributed Generation Interconnection Earnings Adjustment Mechanism

The parties to the Joint Proposal also recommend the establishment of an EAM for interconnection of Distributed Generation (DG) between 50 kW and 5 MW. The EAM would measure DG processing and measure results against three targets:

- Standard Interconnection Requirement (SIR) timeliness.
- a survey of customer satisfaction conducted by an independent surveyor.
- an audit of failed applications conducted by an independent auditor.

Adoption of the Joint Proposal recommendations for the Distributed Generation Interconnection EAM will require the Company to convene a collaborative to develop the survey plan and instrument such that the DG applicants that respond can remain anonymous. In a second phase, this collaborative will seek agreement before May 31, 2017 on the 2017 targets for the three EAM tools and the specific uses to which the audit of

failed applications will be put. If the collaborative cannot reach agreement, DPS Staff will set the targets.

Although targets will be established and data collected in 2017, there will be no DG Interconnection EAM for Rate Year One. As proposed, the DG Interconnection EAM for Rate Years Two and Three will be five basis points in each rate year. The Company will reconvene the collaborative soon after June 30, 2017 to develop the Rate Year Two targets for DG interconnection and for the customer satisfaction survey results. If consensus is not achieved in the collaborative, the Joint Proposal describes the process and timeline to be used to resolve any differences. A similar process will be used to determine the Rate Year Three targets.

As recommended in the Joint Proposal, Con Edison will report on its performance in comparison with the targets and on its calculation of any DG Interconnection EAM that such performance justifies. The Company may begin to collect the DG Interconnection EAM 45 days after making this filing unless the Commission determines that the Company's calculation of the EAM should be corrected. The incentive to be paid by ratepayers will be recovered through the MAC over the following 12-month period.

Distributed Generation will play a large role in the development and implementation of our REV policies. The prompt and effective interconnection of distributed generation facilities is a key element of all strategies to develop distributed generation alternatives. In the Con Edison service territory, it is Con Edison's responsibility to assure that its procedures to accommodate distributed generation projects are effective. The process outlined in the Joint Proposal for a collaborative and a report on interconnection issues appears well justified and useful. In addition, the above described

recommendations for the development of a DG Interconnection EAM should will better align Con Edison's interconnection procedures with those of its customers and will incent the Company to maintain or improve that alignment. Accordingly, these recommendations are approved.

K. Additional Gas Provisions.

The Joint Proposal includes three measures in which the parties make recommendations for actions that are expected to directly or indirectly make a significant contribution to improve safety for customers on the Company's gas system. The implementation of these three safety initiatives is approved. The initiatives are described below.

1. Methane Reduction Collaborative.

As part of the 2014 Gas Rate Plan, a collaborative was formed and, as part of this collaborative, a pilot program began for addressing Type 3 gas leaks.<sup>120</sup> When the results of this pilot program are available, the parties in this case recommend that the collaborative's next steps should be to include further consideration of prioritization of Type 3 gas leaks using leak flow rate and of pipe replacement activities using leak flow rate as a secondary factor.

2. Residential Methane Detector Program.

The Joint Proposal recommends that the Company and Staff and other interested parties develop a residential methane detector program which provides methane detectors to residential customers at no charge. The methane detectors would be

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<sup>120</sup> A type 3 gas leak is one that poses no hazard to people or property. Inspection must occur annually to ensure safety, but no repairs are required.

installed in homes. The program will be funded by \$1.975 million available from a reconciliation of R&D costs in another case, and it is recommended that half of this \$1.975 million should be used to provide methane detectors to participants in the Company's gas low income program.

3. Inside Gas Meters.

The terms of the Joint Proposal, as adopted today, require the Company, when doing certain other work relative to a gas service, to relocate gas meters for that service from the inside to the outside of the customer's premises with certain enumerated exceptions. The incremental cost associated with moving these meters will be deferred for future recovery from customers. The Joint Proposal also calls for a detailed annual report on the number of meters moved, the number of inside meters that could not be moved, and, of the meters left inside, the number that involved service replacements by insertion of a new service line in the existing service line.

L. Customer Operations Provisions

1. Customer Service System ("CSS") Replacement

The Joint Proposal describes the parties' acknowledgement that, in the period from mid-2018 through mid-2023, the Company will replace its existing CSS with a suite of systems to better support customer service and billing. The existing system is over 40 years old, and as noted in the Company's direct testimony, the Company planned to replace the system beginning in 2020.<sup>121</sup> By this recommendation, the parties seek to accelerate the replacement such that it would begin in 2018.

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<sup>121</sup> Exhibit 32, pp. 74-77.

Staff indicates that the Company has great difficulty and significant expense in maintaining the existing system and that some of these costs in the 2018 to 2020 period can be avoided with the accelerated start date.<sup>122</sup> Accordingly, we approve the recommendations in this section of the Joint Proposal.

## 2. Data Access

In the Joint Proposal, it is recommended that the Company be required to add functionality in 2017 to its current process for providing building level data. This functionality will provide Con Edison the ability to upload aggregated whole-building usage data directly to the EPA's Portfolio Manager, which is an online tool by which building owners can measure and track energy consumption. The current fees for providing such data directly to requesting customers will be eliminated, although the Company retains the right to request authorization in the future to charge such fees.

The Company will also implement and deploy Green Button Connect with respect to customer usage information, and the target date for such implementation is year-end 2017.

Both of these recommendations will facilitate the transfer of important customer information, at the customer's request, from or to other market participants, and we approve these recommendations.

## 3. Same Day Electric Service Reconnections

By the terms of the Joint Proposal, adopted here, the Company will be committed to attempt same day electric service reconnection for residential customers whose service was disconnected for non-payment, but who became eligible for reconnection by 5 p.m. on a weekday. However, for such

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<sup>122</sup> Staff's Statement in Support, p. 54.

customers where the meter was removed or service was cut in the street, the reconnection would only be made to the extent practicable. Prompt reconnection for a disconnected customers previously disconnected for non-payment is an important goal.

4. Uncollectible/Residential Service Termination Positive Incentive

The parties recommend the establishment of a positive revenue adjustment when the Company achieves specified targets in the rate year. The adjustments and targets range from a positive revenue adjustment of \$2 million (if terminations are less than 68,000 and bad-debt write-offs are less than \$48 million) to \$6 million (if terminations are less than 62,000 and bad debt write-offs are less than \$45.7 million).

Termination of service exposes customers to increased health and safety risks, as well as financial hardships. This incentive mechanism, which we approve, is intended to prompt Con Edison to limit whenever possible its reliance on service terminations for residential collections, without negatively impacting the Company's bad debt. Achievement of this goal benefits the Company and its customers, and furthermore is in the public interest.

M. Advanced Metering Infrastructure

1. AMI Scorecard

In a different proceeding, Con Edison was directed to develop a set of metrics for AMI that can be used to monitor the success of the AMI program.<sup>123</sup> In this proceeding, an initial filing by the Company proposed 21 metrics in seven areas. This proposal was modified in response to comments by Staff and several other parties and the resulting schedule of metrics, as

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<sup>123</sup> Case 15-E-0050 et al., Order Approving Advanced Metering Infrastructure Business Plan Subject to Conditions (March 17, 2016).

set forth in Appendix 18 to the Joint Proposal. The Appendix 18 list describes 17 metrics in 5 categories (Customer Engagement, Billing, Outage Management, System Operation and Environmental Benefits, and AMI Meter Deployment).

## 2. AMI Platform Service Revenues

In our Track Two Order, we identified Platform Service Revenues (PSRs) as a significant opportunity for utilities to earn revenues from activities that facilitate growth of the markets. We also explained that PSRs for utilities are derived from monopoly functions, and, therefore a significant portion of the PSRs should be returned to ratepayers. We did not, however, in that order fix the specific sharing percentages that should be used.<sup>124</sup> In the Joint Proposal, the Company has agreed to propose an 80-20 sharing between ratepayers and the Company for any PSR generated from the AMI system when it makes its tariff filing. The parties' recommendation provides clarity on this aspect of the implementation of PSRs in the Con Edison service territory. While this is only one aspect of the tariff filing that the Company must make to introduce a PSR measure, it is useful to the Company and others to know how this aspect of the tariff filing will be worked out. The proposal is adopted as consistent with the discussion of PSRs in the Track Two Order.

## 3. AMI Customer Awareness Earning Adjustment Mechanism

As recommended by the parties and in accordance with the Joint Proposal, the Company will conduct surveys of customer AMI awareness before AMI implementation in each region, as AMI is deployed in each region, and after installation is complete in the region. The initial survey results will be used by the Company and Staff to set the target for customer awareness after deployment. If the Company meets or exceeds the target it will

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<sup>124</sup> Track Two Order, p. 51.

receive an earnings adjustment of \$250,000. The Company is eligible to receive a \$250,000 adjustment for each region, although the maximum allowable adjustment will be \$500,000 during the rate plan.

Con Edison will be investing a significant amount of money in the deployment of AMI throughout its service territory. This EAM is designed to promote customer awareness of the technology, features and benefits of AMI, which will allow customers to, among other things, better understand their energy usage and how managing such usage can impact their bills. The engagement efforts necessary to achieve this EAM will not only enhance the benefits of AMI technology, but will advance the important REV objective of promoting customer engagement.

This provision of the Joint Proposal sets forth the timing and process by which the Company can claim this EAM, the allocation of responsibility for the incentive between Con Edison customers and NYPA, and the intention to collect the electric portion through the MAC and through the NYPA OTH. Each of these provisions is well suited to facilitate the development of AMI customer awareness and to support the related EAM.

#### N. Electric and Gas Low Income Programs

The Company's Electric and Gas Low Income Programs are impacted in two ways by the Joint Proposal. First, the Joint Proposal addresses the Company's provision of a discount to eligible electric and gas customers. Second, the Joint Proposal includes an initiative to waive reconnection fees.

##### 1. Electric and Gas Customer Qualification and Enrollment

As provided in the Joint Proposal, the parties recommend that, to qualify for the Company's low income program, the customer must be a Direct Voucher or Utility Guarantee customer, receive a HEAP benefit on behalf of the utility, or

receiving benefits in one of six listed governmental assistance programs.

The parties recommend that customers can enroll in the low income programs through various mechanisms as set forth in the Joint Proposal. Enrollment will be through existing procedures available to Utility Guarantee or Direct Vender customers, through participation in the Home Energy Assistance Program, or through an individual customer application. Eligibility would also be established through a computer match program between Con Edison and the New York City Human Resources Administration (HRA) or the Westchester County Department of Social Services (DSS).

As set forth in the Joint Proposal, the parties also recommend that the Company contribute in each rate year towards the HRA or DSS mailing costs. Con Edison will make a further one-time contribution to HRA and DSS to address a portion of the HRA and DSS administrative costs incurred to add Medicaid to the list of programs which qualify a customer as eligible to participate in the Company's electric low income discount program.

In the Low Income Order, the Commission adopted a policy which seeks to limit energy costs to no more than 6 percent of household income for the approximately 2.3 million low income households in New York. Achieving this goal will require utility low income programs to expand the eligibility requirements for their programs so as to reach additional low income customers. As noted above, the enrollment initiatives, including the addition of Medicaid customers as outlined in the Joint Proposal, will help to advance the Commission's affordability goals and are approved.

2. Electric and Gas Low Income Discount Program

The parties propose, through their Joint Proposal, different discount levels for Rate Year One and for Rate Years Two and Three. In Rate Years Two and Three, the discount shifts from a discount to the customer charge or the per therm charge to a discount to the total bill. During this time, eligible customers would fall in one of three tiers, with the higher tiers available to customers depending on their qualification for successively greater HEAP benefits. The target value for the discounts provided through the Company's electric low income discount program is \$54.7 million per year, and the target value for the discounts for customers in the Company's gas low income program is \$10.9 million per year.

The Low Income Order adopts an approach which varies discounts based on level of need. The system of tiered discounts is approved as consistent with the approach the Commission adopted in the Low Income Order.

3. Qualifying Customers

As described in the Joint Proposal, the Company would enroll all qualifying electric and gas customers in their respective low income programs, and this open enrollment would proceed even if the programs were at that time over-subscribed.<sup>125</sup> Our Low Income Order envisioned programs in which all qualifying customers are enrolled, and no eligible customer is turned away (although discount levels may be adjusted in a subsequent year). These provisions are also approved as consistent with the Low Income Order.

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<sup>125</sup> If the Company's expenses are more than or less than the amounts included in base rates for this program (\$54.7 million for electricity, \$10.9 million for gas), the under- or over-recoveries will be passed to customers through the RDM.

4. Reconnection Fee Waivers

The parties recommend, through the Joint Proposal, that the Company continue a program for the waiver of reconnection fees. Under the program, the Company waives its electric and gas reconnection fees for individual customers once in each Rate Year, and provides additional waivers on a case-by-case basis and for good cause shown. The Company's tariffs will indicate that the waiver program may be suspended if the cost of the program exceeds the costs as estimated for the gas or electric rate plan. Reconnection fee waivers avoid the diversion of a low income customer's scarce resources from payment of the bill to payment of reconnection fees. The continuation a program to provide waivers of this sort is supported in the Low Income Order, and we approve the parties' recommendations here to this effect.

5. Reporting Requirements

The Joint Proposal includes a recommendation that the Company report quarterly on several metrics that focus on various aspects of the recommended electric low income program. The Joint Proposal at Appendix 24 provides a template for the Company to use for the presentation of the data required by the report and for the report described below for the gas low income report. Similarly, the Joint Proposal also includes a recommendation that the Company report quarterly on several metrics associated with the gas low income program.

In the Low Income Order, we characterized the utility program reports as insufficient to gauge low income program effectiveness and we directed the utilities to begin regular, quarterly filing of program reports. This provision of the Joint Proposal implements these requirements from the Low Income Order, and they are approved.

O. Studies and Collaboratives

The parties recommend, through the Joint Proposal, that several studies and collaboratives be completed or conducted during the term of the rate plan. Specifically, the Joint Proposal describes the following:

1. Interconnection Procedures Collaborative.
2. Marginal Cost Study.
3. Gas Peak Demand Reduction Collaborative.
4. Interruptible Gas Collaborative.
5. Compressed Natural Gas (CNG) Access Study.
6. Climate Change Vulnerability Study.
7. Building Meter Conversion Study.

No party raised an objection to the commencement or continuation of any of these studies or collaboratives, and one party, Pace, affirmatively asserted that one collaborative, in which it was interested (i.e. the Climate Change Vulnerability Study) and which originated in the 2014 Rate Order, be continued under the current rate plan until completed.

As the record for a rate case develops, it is often the case that the information available on a particular issue is simply unavailable. In these circumstances, a further study by the Company or by a consultant is often sought so that, in future cases, that issue may be more productively addressed. In the past, we have approved the inclusion of a list of such studies in our order. We see no reason to deviate from that practice at the present time.<sup>126</sup> Accordingly, the provisions of

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<sup>126</sup> We note that we approved a list of ten such studies or collaboratives in the 2014 Rate Order. On its face, it appears that the only overlap between the list provided in the Joint Proposal and the list set forth in the Joint Proposal is the Climate Change Vulnerability Study described above.

the Joint Proposal describing seven studies or collaboratives to be addressed by the Company and other parties in the future is adopted.<sup>127</sup>

P. Miscellaneous Provisions.

The Joint Proposal includes in Section P of the Joint Proposal several miscellaneous provisions. These miscellaneous provisions are the same or nearly identical to provisions normally added as "boiler plate" to previous Con Edison Joint Proposals to protect the participants or guide the participants' behavior in certain predictable but unlikely circumstances.

These provisions are described as follows:

1. Continuation of Provisions; Rate Changes;  
Reservation of Authority
2. Legislative, Regulatory and Related Actions
3. Financial Protections
4. Trade Secret Protection
5. Provisions Not Separable
6. Provisions Not Precedent
7. Submission of Proposal
8. Effect of Commission Adoption of Terms of this  
Proposal
9. Further Assurances
10. Scope of Provisions
11. Execution

For the most part, these provisions implement agreements among the parties. As such, they do not require adoption by the Commission, and they are not adopted here. We

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<sup>127</sup> While we are approving this recommendation from the Joint Proposal, the parties should be aware that the terms and schedule on which these studies and collaboratives are conducted is subject to change as the topics are being addressed, and it is not the intent of this Order to preclude these changes in any way.

note, however, that "Provision 3 - Financial Protections" is clearly more than an agreement among the parties and that this provision is not found in previous Joint Proposals.

This Provision 3 responds to the circumstance that the regulated entity in the case, Consolidated Edison Company of New York, Inc. (Company), is a subsidiary of Con Edison Inc. (CEI), and that the financial position of CEI or any of its business segments could have an impact on the Company and, in some cases, on the Company's ratepayers. Because of this, Provision 3 requires Con Edison to report to the Commission whenever investments in CEI's non-utility businesses or whenever its holding company debt reaches or exceeds certain thresholds and to propose additional ring-fencing measures to be taken or to explain why such additional ring fencing measures are not necessary. This provision is an important protection and is in the public interest. We adopt it as a term of this order.

Q. Management and Operations Audit Compliance

Public Service Law (PSL) §66(19)(c) requires the Commission, upon the application of a gas or electric corporation for a major change in rates, to review the corporation's compliance with the directions and recommendations made previously by the Commission, as a result of the most recently completed management and operations audit. In February 2008, the Commission instituted a comprehensive management and operations audit of Con Edison's electric, gas and steam

businesses.<sup>128</sup> In May 2008, we selected an auditor to perform the audit. The auditor's final report was released to the public on August 7, 2009, and the Company was directed on August 21, 2009 to submit an Implementation Plan to address the recommendations in the final audit report.

Con Edison filed written implementation updates every four months and annual updates. The Company filed its final implementation plan update on January 28, 2015. In this final update, the Company reported that it had implemented all 92 recommendations from the audit report. Staff issued its audit closeout letter on May 5, 2016.<sup>129</sup>

We find, pursuant to PSL § 66(19), that Con Edison is currently in compliance with the directions and recommendations made in connection with the most recently completed management and operations audit.

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<sup>128</sup> Case 08-M-0152, Con Edison Management and Operations Audit, Letter to Prospective Bidders (February 13, 2008). This is the most recently completed management and operations audit for Con Edison. The Company has participated in two not-yet-completed operational audits examining certain practices at major gas or combination gas and electric utilities in New York (Cases 13-M-0314 and 13-M-0449). In addition, the Company is currently in the implementation phase of its second management and operations audit of its electric, gas and steam businesses (Case 14-M-0001).

<sup>129</sup> In the discussion here of the Case 08-M-0152 audit results, the Company reported and Staff agreed that in the implementation of a recommendation from this audit:

A total of 301 FTEs ... have been reduced over the time period of 2009 to 2015. This has resulted in savings of approximately \$45 million of capital and O&M annually that were fully realized in 2015. Savings include direct labor costs and labor fringe benefits and are reflected in the Historic Year and, therefore, the Rate Year.

Staff Management Audit Panel at 8 and Exhibit \_\_\_ (MAP-1).

R. Evaluation Under Settlement Guidelines

The Commission's Settlement Guidelines<sup>130</sup> provide guidance to parties seeking to resolve a matter through a negotiated settlement. Under the guidelines, the results of negotiation are reduced to a set of recommendations that are endorsed by at least some parties and that are then formally set forth in a Joint Proposal for evaluation through a public hearing and briefs. Under these guidelines, we evaluate a Joint Proposal submitted for our consideration to determine if the terms of the proposal, viewed as a whole, produce a result that is in the public interest.

Under the Settlement Guidelines, the Commission's approval for the recommendations in a Joint Proposal depend on a showing by its proponents that the Joint Proposal is in the public interest which in turn depends on a showing by the parties sponsoring the negotiated resolution that the terms of the settlement appropriately balance the interests of ratepayers with the interests of utility investors and with the viability of the utility. In addition, the settlement's proponents should also demonstrate that the settlement terms are consistent with the environmental, social and economic policies of the Commission and the State; and that the settlement terms produce results that are within the range of reasonable results that would have likely arisen from a Commission decision in a litigated proceeding.

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<sup>130</sup> Commission's "Procedural Guidelines for Settlements" at Cases 90-M-0225 and 92-M-0138 - Procedures for Settlement and Stipulation Agreements, Settlement Procedures, as filed in Case 11175, Opinion 92-2, dated March 24, 1992, at Appendix B.

1. Balance of utility, ratepayer and shareholder interests.

The Joint Proposal is the product of many negotiation sessions noticed to, and attended by, representatives of the large number of participating parties. The fact that consensus was achieved by so many parties with such diverse interests and that no party ultimately extended its opposition to the entire Joint Proposal suggests that well-considered and reasonable compromises were made along the way. Indeed, it is clear that parties with interests that are often not aligned have identified a common ground and come together notwithstanding their historic policy differences. These normally opposing parties include the Company, Staff, representatives of large commercial customers, consumer representatives, low income advocates, environmental advocates, and large public authorities and local governments.

The robust evidentiary hearing addressing the terms of the Joint Proposal further establish both the strength of the negotiated terms, as well as the difficult work that went into establishing the balance achieved among so many parties. While some of the points made by the opposition showed that other equally valid choices could have been made by the parties, it is clear that those choices would at best have substituted one party's support at the expense of another's.

2. Consistency with environmental, social and economic policy.

The terms of this Joint Proposal are unquestionably consistent with current State policies. First, The Joint Proposal recognizes and advances the important policy directives that the Commission adopted in the Track Two Order of the REV proceeding.<sup>131</sup> These include measures to facilitate the recovery

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<sup>131</sup> TDM Order.

by the utility of costs associated with the completion of Non-Wires Alternatives and the development of Earning Adjustment Mechanisms (EAMs) related to Energy Efficiency and system efficiency, including targets for the reduction of system peak demand and for load factor improvement. Further, the Joint Proposal includes recommendations for EAMs providing metrics and targets for new outcome-based EAMs to increase DER utilization and to decrease energy intensity. These initiatives will further the Commission's objective of moving toward an electric system that is more efficient, reliable, resilient, diverse, customer-centric and clean.

Further, the rates that result from the Joint Proposal are recognized by the Company to provide it with the resources needed "to build, operate and maintain safe and adequate electric and gas systems."<sup>132</sup> At the same time, the Joint Proposal includes several provisions to protect ratepayers from circumstances that, without such protections, would impose an unfair burden. Ratepayers are protected by an earnings sharing threshold, and a downward only true-up for the carrying costs associated with under-target plant in service. Both the Company and ratepayers benefit from the predictability of a three-year rate plan.

The Joint Proposal also advances natural gas policy goals for safer and more reliable in several important ways. First, it accelerates the replacement of leak prone pipe throughout the Con Edison service territory by establishing higher annual targets for the replacement program and then by further incenting pipe replacement above and beyond those targets. Second, the Joint Proposal encourages the Company to repair more natural gas leaks and to target those leaks that

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<sup>132</sup> Con Edison Statement in Support p. 2.

emit the most methane, which is a greenhouse gas. Third, the Joint Proposal directs Con Edison to develop a program to supply and install residential methane detectors for customers who wish to use them to enhance the safety and reliability of their natural gas service. The rate plan approved today also provides the means for Con Edison, through infrastructure upgrades, to assist New York City in meeting its Clean Heat program goals. Finally, the rate plan enables Con Edison to meet other policy objectives related to gas service lines inside buildings and to the relocation, when needed, of natural gas meters to a more accessible location, both of which will enhance safety and reliability by reducing possibility of natural gas leaks within the customer's building.

The provisions of the Joint Proposal also reflect current State policies expressed in our recent Low Income Order to expand our protection of the State's most vulnerable customers. The terms we adopt today expand the availability of rate discounts for low income customers, and encourage the utility to limit the extent to which it relies on service terminations when customers fall into arrears.

Finally, the recommendations in the Joint Proposal also establish important provisions to implement our recent AMI Order. In particular, it reflects the overall cap of \$1.285 billion (gas and electric) set in the AMI Order for the anticipated implementation of the program over six years, development of an AMI Scorecard to assess the Company's success in introducing this new technology, an AMI Customer Awareness EAM to incent the Company's efforts to promote customer awareness of AMI's features and benefits, and a one way downward only reconciliation when the project is completed to protect customers in the event that Con Edison's AMI program costs less than anticipated.

3. Results within the range of likely litigation outcomes.

The robust record before us includes the litigation positions of the participating parties entered as exhibits at the evidentiary hearing. These exhibits clearly establish the broad range of outcomes which could have been pursued in litigation had the parties not entered into negotiated settlement. In addition, the parties' pre-hearing statements, and particularly those in support of the Joint Proposal, further serve to establish that the terms agreed upon fall well within the range of potential litigated outcomes. This broad and encompassing consensus reached in these proceedings is the best evidence that the conclusion reached in the Joint Proposal is well within the range of likely litigation outcomes.

CONCLUSION

The recommendations in the Joint Proposal are supported by an impressive proportion of the parties that participated in these cases. These parties have worked extremely hard to produce a forward-looking plan to guide Con Edison for the next three years. We commend those efforts. Notwithstanding some limited opposition, we find that the terms of the Joint Proposal strike a well-considered balance of the interests of ratepayers, shareholders, and the utility, that the Joint Proposal is consistent with and indeed actively advances State policies, and that the outcome falls within the range of expected litigation outcomes. Having carefully reviewed the full record, including the statements in support or in opposition, the comments by interested organizations and members of the public, and the recommendations of our advisory staff, we

find that the terms of the Joint Proposal are in the public interest, and we adopt them, without modification.<sup>133</sup>

The Commission orders:

1. The rates, terms, conditions, and provisions of the Joint Proposal dated September 19, 2016, filed in these proceedings and attached hereto as Attachment, and with the understandings discussed in this order, are adopted and incorporated herein to the extent consistent with the discussion herein.

2. Consolidated Edison Company of New York, Inc. (Con Edison) is directed to file cancellation supplements, effective on not less than one day's notice, on or before January \_\_, 2016, cancelling the tariff amendments and supplements listed in Attachment C.

3. Con Edison is authorized and directed to file, on not less than one day's notice, to take effect on February 1, 2017 on a temporary basis, such tariff changes as are necessary to effectuate the terms of this order and to incorporate in such filing any tariff amendments that were previously approved by the Commission since the tariff amendments listed on Attachment No. 1 were filed.

4. Con Edison shall serve copies of their filings on all parties to these proceedings. Any party wishing to comment on the tariff amendments may do so by filing its comments with the Secretary to the Commission and serving its comments upon all active parties within ten days of service of the tariff amendments. The amendments specified in the compliance filings shall not become effective on a permanent basis until approved by the Commission and will be subject to refund if any showing

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<sup>133</sup> This adoption of terms, however, does not encompass the terms governing only relations among the parties in Section P as discussed above.

is made that the revisions are not in compliance with this order.

5. Con Edison is also directed to file such further tariff changes as are necessary to effectuate the rates for Rate Year Two beginning January 1, 2018, and for Rate Year Three beginning January 1, 2019. Such changes shall be filed on not less than 30 days' notice to be effective on a temporary basis.

6. The requirements of the Public Service Law §66(12) (b) that newspaper publication be completed prior to the effective date of the amendments for Rate Year One is waived; provided, however, that Con Edison shall file with the Secretary of the Commission, no later than six weeks following the effective date of the amendments, proof that a notice to the public of the changes set forth in the amendments and their effective date has been published once a week for four consecutive weeks in one or more newspapers having general circulation in the service territory. The requirements of Public Service Law §66(12) (b) are not waived with respect to Rate Year Two and Rate Year Three, or with respect to tariff filings in compliance with this order made in subsequent years.

7. 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 one day prior to the affected deadline.

8. These cases are continued.

By the Commission,

KATHLEEN H. BURGESS  
Secretary

(SIGNED)

CASES 16-E-0060, et al.

Commissioner Diane X. Burman, concurring:

As reflected in my comments made at the January 24, 2017 session, I concur in limited fashion on this item.

ATTACHMENT A

Joint Proposal

Appendix A, the Joint Proposal, dated September 2016 and filed on the Department website ([www.dps.ny.gov](http://www.dps.ny.gov)) on September 20, 2016, is hereby incorporated by reference and can be located on the website under Case Number 16-E-0060.

## ATTACHMENT B

### SUMMARY OF INITIAL POSITIONS OF THE PARTIES

#### Con Edison - Electric

Con Edison defined its primary goals of the current rate filings to be building infrastructure for safe and reliable service at a reasonable cost and to implement new technology to better serve customers and to promote energy efficiency and renewable energy. To do this, the Company sought an increase in electric delivery revenues of approximately \$482 million (9.5 percent increase on a delivery revenue basis). To achieve this level of increased revenues, the Company recommended a capital structure based on an equity ratio of 48% and a return on equity of 9.75%.

According to Con Edison, its filing explained the need for continuing capital investments to maintain safety and reliability, for investments to adapt its system for Reforming the Energy Vision (REV), for New York State's energy future, and for investments to enhance the customer experience. While the Company's filing was focused on its proposed one-year rate plan, it also expressed the Company's interest in seeking a multi-year rate plan in settlement discussions.

The Company's initial filing indicates that the \$482 million funding increase sought in Rare Year One (RY1) would be focused on Con Edison efforts to manage risk and maintain reliability by making needed upgrades, to expand its system to accommodate new business and growth, to begin implementation of Advanced Metering Infrastructure (AMI), and to work toward development and implementation of its Distributed System Implementation Plan (DSIP). The Company's initiatives would also include measures to increase customer engagement and

improve the customer experience through a series of initiatives undertaken through its DCX Program.

To incent the implementation of these measures, the Company proposes the continuation of several existing incentives and the introduction of certain new, positive incentives. It also emphasizes the need for continued flexibility to manage its capital and other programs, and the reallocation of some costs now paid by electric customers to its gas customers.

#### Con Edison - Gas

In its gas case, the Company sought increased delivery revenues of \$154 million (a 9.5% increase in delivery revenues). According to the Company, this increase in revenues would be used to upgrade the gas system and improve its performance through a greater use of remote operated valves, enhanced interconnects in Westchester and Queens, and expanded use of Area Growth Plans in Westchester County. The Company's efforts to better manage risk would also be enhanced through more frequent and more efficient leak detection surveys and the development of a new section for Gas Compliance and Quality Assessment. The Company proposed the continuation or creation of new performance measures and incentives, and the Company proposed several measures to enhance the customer experience including greater efforts for oil-to-gas conversions.

#### Staff - Electricity

Staff's pre-filed direct testimony recommended a revenue increase of \$45.037 million in Rate Year One (RY1) which is approximately \$434.6 million less than the company proposed. This recommendation assumed a 48% equity funding ratio and an 8.6% return on equity. In addition to the Staff's support for a \$45.037 million revenue increase, Staff also recommends the establishment of an additional revenue opportunity for the

Company through three new Earning Adjustment Mechanisms (EAMs). One EAM, which should be implemented on an expedited basis, would incent greater effort by the Company in support of the interconnection of Distributed Generation (DG) projects of 50 kW or less. The second EAM would be used to incent the Company's program to fully implement AMI throughout its service territory. The third EAM would hasten the implementation of the Company's AMI program.

Staff supported the Company's proposed capital projects (with downward only reconciliation) to support the development of a Con Edison Distribution System Platform (DSP) and its modernization efforts and related development of a new Distributed Resource Integration (DRI) organization within the Company. Staff testimony also supports the Company's transfer of the expenses associated with its Hudson Avenue property from steam to electric customers.

#### Staff - Gas

For Rate Year One, Staff recommended a revenue requirement decrease of \$25.229 million. Staff also recommended the continuation or enhancement of existing revenue adjustments regarding leak prone pipe replacement, leak management, damage prevention, and emergency response time with increased targets for leak prone pipe replacement. Further, Staff also supported the development of new EAMs to incent still greater efforts to replace LPP and to reduce leak backlogs, the conversion of certain rental properties to single meter service, peak load reduction, natural gas vehicles, and AMI.

#### Utility Intervention Unit (UIU) - Customer Service and Low Income Programs

UIU summarizes its Customer Service and Low Income Program testimony as recommending:

A more stringent target for the PSC Complaint Rate.

The elimination of reconnection fees (and, correspondingly, reconnection fee waivers) for low income program participants.

The inclusion of Medicaid as one of the several programs that qualify customers for the Company's electric low income program.

A change to how the Company reconciles its electric low income program costs.

Rejection of the two Earnings Adjustment Mechanisms (EAMs) associated with Green Button Connect (GBC) My Data proposed by the Company.

A requirement that the Company accept an Individual Taxpayer Identification Number (ITIN) and IDNYC as forms of personal identification and a further requirement that the Company look further into other forms of identification which could be acceptable for this purpose.

UIU - Electric

In direct testimony, UIU opposed the Company's proposal to shift responsibility for certain gas transportation and delivery charges from gas to electric system customers. In addition, UIU urged that, in setting electric rates:

The demand allocator for distribution plant should be based solely on non-coincident peak demand ("NCP");

Primary distribution conductors should be classified purely as demand-related;

The minimum system definitions used for secondary distribution plant should be modified to reflect true minimum loads;

The costs of AMI should be allocated based on energy; and

The Commission should instruct Con Edison to analyze cost causation and class beneficiaries regarding AMI and Reforming Energy Vision ("REV") for the next rate proceeding; and

Customer fixed costs should be reduced according to the UIU recommended ECOS approach.

UIU - Gas

UIU testimony urged rejection of the Company's gas ECOS study insofar as it allocates an excessive share of gas distribution main costs to residential and small commercial customers. It also suggests that the ECOS study does not provide a reliable rationale for the drastic adjustment of existing interclass revenue relationships.

UIU also challenged company proposals to increase the customer charges for non-heating residential and religious customers and urged the Commission to consider across the board reductions in customer charges and the flattening of any existing declining block rate designs. This testimony also urged the Commission to keep constant or to increase existing non-firm gas rates based upon fairness and value-of-service considerations.

New York City (NYC) - Electric

NYC supported the efforts made by Con Edison to begin to address the impacts of climate change. To support these initiatives, the City sought direction from the Commission to the Company for the completion of a Climate Change Vulnerability Study. To further support the Company's initiatives for energy efficiency, and distributed resource programs and for programs NYC is creating to improve building efficiency so as to reduce carbon emissions, NYC also urged that an even greater exchange of data between the Company and its customers and between the Company and NYC must be created.

Despite the progress which NYC has recognized, the City also believed that the Company is too often constrained by a "business as usual" approach. This is most often observed by

NYC in the development of capital projects which, the City asserts, look too infrequently at alternatives to the simple one-for-one replacement of equipment when the need for a capital investment is identified.

The City further objects to several aspects of the Embedded Cost of Service (ECOS) study provided by the Company with its initial filing. Based on these objections, NYC argues that a tolerance band of 15%, rather than the 10% recommended by the Company, should be used to evaluate whether, for a particular class, an adjustment of rates is appropriate. NYC also urged the Commission to reconsider the "matrix" approach to stand-by rates so that a more explicit value for load diversity and capacity performance can be incorporated in the Company's standby rates. Further, NYC urged the Commission to reject as unneeded the proposed Reliability Surcharge Mechanism.

Finally, NYC urged that special rates be developed for the supply of electric service to public benefit Wi-Fi access points.

#### NYC - Gas

NYC's filing recognized that the Company will be making significant investments in gas infrastructure under its proposed rate plan. NYC's testimony made suggestions as to the contributions these investments could make to reliability or to resilience. However, NYC also urged that, in the event the Company is not able to make investments at the levels suggested by its filing, care should be taken so that the surplus unspent funds are returned to ratepayers. Further, NYC argued that the capital spending program should produce some reduction in Operations and Maintenance (O&M) expenses, but that these savings are not reflected in the Company's filing. Further, NYC urged the Commission to reject the performance mechanisms proposed by Con Edison inasmuch as these appear to incent

performance which is no better than what is generally available in the industry. NYC also urged rejection of a performance incentive to stimulate leak prone pipe replacement.

NYC recognizes and supports the Company's programs to promote Oil to Gas (OTG) conversions. To the extent, these programs provide incentives to customers to make the conversion, NYC supports these payments. It does not support, however, the creation of incentives to be paid to Con Edison with respect to these programs.

In evaluating the Company's proposal with respect to its low income programs, NYC urged the Commission to increase the level of benefit provided, but reduce the forecast number of participants. It also sought recovery from Con Edison of a significant portion of the expenses which it incurs in support of the low income discount that Con Edison is providing to participating customers.

Public Utility Law Project of New York, Inc. (PULP)

In its pre-filed direct testimony, PULP asserted that up to 50% of Con Edison's residential customers have significant difficulty in paying their electric and gas bills. To address this affordability challenge, PULP recommended that Con Edison immediately expand the eligibility of customers for participation in the Company's low income electric rate plan by adding Medicaid to the programs which provide eligibility for the low income program. Similarly, PULP urged that, for both the electric and the gas low income rate plans, eligibility should also be provided through participation in the Section 8 housing choice voucher program.

With respect to the low income rate plans themselves, PULP urged that the discounts provided to participating customers should be increased by the greater of 5% or the projected typical bill increase which results from this case.

For all residential customers, PULP urged that the Company reduce the monthly basic service charge to \$10 each for electric and gas service and adopt a full year inclining block rate design for both electric and gas rates. It recommended that rates be further mitigated by requiring Con Edison's shareholders to pay 20% of the Site Investigation and Remediation (SIR) expenses incurred by the Company in the future.

The PULP testimony recommended that, after developing a detailed engagement and implementation plan, Con Edison should allocate \$2 million to support low income weatherization and energy efficiency programs. In an additional recommendation, PULP urged that Con Edison should implement a low income gas conversion rate program. It also sought the establishment of an independent working group to identify new ways by which enrollment in the Company's low income electric and gas rate programs could be increased and to understand the "steadily increasing rate of default on deferred payment agreements".

The PULP testimony also included a description of an extra-judicial practice used by Con Edison in connection with its efforts to bring a replevin action to seize the meter of a customer who is in arrears on his or her gas service account. Under this practice, Con Edison induces a customer who is in arrears to appear in or adjacent to an official judicial court room, although no court related proceeding regarding the replevin will occur. The customer is also led to the mistaken impression that he or she will be meeting with a judge and that the meeting will be conducted as a judicial proceeding and pursuant to a judicial process. In promoting this misimpression, the Company schedules some or all of these meetings through the court clerk and has made arrangements such

that court papers relevant to the replevin, when they are produced, are not filed with the Court.

Community Housing Improvement Program (CHIP)

The CHIP pre-filed testimony is provided to show that:

The Con Edison rates for gas and electric service are unjustifiably high, and that, in addition, Con Edison's rates for gas service are disproportionately higher than those of The Brooklyn Union Gas Company d/b/a National Grid NY for gas service.

A portion of the costs of Con Edison for its benefits and compensation plans for the non-union management employees ("Non-Union Employees") discussed by the Con Edison Compensation/Benefits Panel are excessive and therefore unreasonable and unnecessary business expenses.

Con Edison's Non-Union Employees are paid much more, proportionally, than its customers since the average Con Edison Non-Union Employee earns on average more than twice as much as the average apartment dwelling customer in New York City and 30% more than higher earning apartment dwelling customers, yet the C/B Panel has not provided any testimony specifically demonstrating that Con Edison is unable to hire qualified Non-Union Employees at levels of compensation commensurate with those of its similarly qualified customers.

Con Edison's level of customer service, does not justify the excessive compensation of its Non-Union Employees.

Consumer Power Advocates (CPA)

CPA provided pre-filed testimony to demonstrate the impact of non-profit Biomedical Research on the New York economy and to demonstrate the competitive environment in which biomedical research is conducted. The testimony sought to describe how the increasing cost of electric transmission and distribution has become a competitive disadvantage in the development of biomedical research. CPA testimony then sought to describe the impact that the Company's proposal to reduce Business Incentive Rate (BIR) could have and, therefore, to urge

the Commission to retain and expand the availability of BIR discounts. Finally, the CPA testimony discussed Con Edison's AMI initiative, and it discussed the need for Con Edison to develop comprehensive and more protective privacy and confidentiality policies.

The CPA testimony also addressed Con Edison's proposal to increase Off-peak Firm Service Gas rates and explained that the gas delivery rates applicable to gas used in distributed generation (DG) equipment are uncompetitive and excessive. This testimony also recommended revisions to the Company's electric standby rates, in order to support the Commission's Reforming the Energy Vision (REV) initiative. These revisions included a reduction of the Contract Demand rate, the Company's interpretation of its campus offset tariff, and a revision related to the optional exemption from standby rates. The testimony also explained certain temporary difficulties regarding the reliability credit contained in the standby rates. Finally, the testimony commented on the Company's proposal to reduce the discounts available under Rider J - Business Incentive Rates.

New York Energy Consumers Council (NYECC) - Electric

NYECC filed testimony to support its assertions that electric rates were too great a burden for large electricity consumers and that the Company's electric revenue requirement should not be increased. The NYECC testimony also voiced NYECC's view in opposition to the Company's incentive proposals, its view that the Company's proposed revenue requirement increases are unreasonable, its view that the impact of the proposed increases would be greater than it may appear because of other burdens being assigned to ratepayers through other cases, its opposition to the Company's proposal to shift some usage revenue to demand revenue for certain large electric usage

rate classes, and its recommendation that settlement proceeds provided in a recent Con Edison Prudence Proceeding be used in these cases to reduce rates.

Through a second witness, NYCEE provided testimony describing its recommendations for further improvements to existing Standby Rates and for a new "market based" voluntary load reduction rate for Standby Rate customers.

County of Westchester (COW)

In its pre-filed testimony, COW expressed its opposition to the Company's proposal to transfer the Hudson Avenue Facility from Steam Operations to Electric Operations. This testimony also addressed several accounting issues associated with the Company's AMI program. Further, COW's testimony reviewed the existing Earning Sharing Mechanism which the Company proposes to continue and COW challenged the sharing threshold in this Mechanism as too generous. COW also considered the Company's proposal to recover for a reserve deficiency which the Company claims to have identified through a 2016 depreciation study and concluded that, notwithstanding the study, the deficiency was too uncertain to justify changes in depreciation at this time.

Upon review of the Company's Operations and Maintenance (O&M) expenses associated with Load Dispatching and PJM wheeling, COW asserted that the projected costs for this activity fail to reflect the termination of the PJM wheeling agreement in the middle of the rate year (on April 30, 2017). The COW testimony also urged rejection of Con Edison's proposal to modify the existing major storm reserve.

Further, the COW testimony reviewed and opposed the Company's proposal to shift 8% of gas transmission facility costs and of certain firm interstate pipeline agreements from gas customers to electric customers.

In response to several Con Edison proposals to modify certain negative incentives and to establish positive incentives in support of certain programs, COW urged that these incentive proposals be rejected. COW supported, however, the Company's proposed EAM to incent improved procedures for DG interconnection, although it urged the extension of these interconnection improvements to facilities larger than those which would benefit from the Con Edison proposal.

Finally, the COW pre-filed testimony recommended rejection of the Company's proposal to pay the fees associated with a customer's payment by credit card.

Metropolitan Transportation Authority (MTA)

The pre-filed testimony from the MTA asserted that the Company's charges for high tension service were, in comparison with its charges for low tension service, too high and were providing an unwarranted subsidy from high tension customers, such as the MTA, to low tension customers.

New York Power Authority (NYPA)

The pre-filed direct testimony filed on behalf of NYPA stated NYPA's support for the Company's proposal to address a revenue deficiency associated with the NYPA class of customers and identified through the Company's Embedded Cost of Service (ECOS) study. Similar support was expressed for the Company's proposal to adjust the ratio of high tension to low tension transmission costs. In both instances, the Company recommended a multi-year phase in for these adjustments, and NYPA advises that it would recommend a different phase-in schedule if the Commission significantly reduced or denied the Company's base rate increase.

Currently, NYPA customers provide some revenue to meet the costs of the PJM transmission contract. This contract will

end in April 2017. Under the current rate orders, NYPA's contribution to the PJM transmission contract costs was capped at \$4.6 million per year. In this case, Con Edison proposed to remove this cap. NYPA, on the other hand, has argued in earlier cases and in the current testimony that its customers should not pay any of the costs associated with this contract.

The NYPA testimony also objected to the Company's proposal to shift some costs of its gas system to electric customers but agreed with Con Edison's proposal to combine the Kennedy International Airport Cogeneration (KIAC) revenues with NYPA revenues for Revenue Decoupling Mechanism (RDM) purposes.

SolarCity Corporation (SolarCity)

The pre-filed testimony from SolarCity urged the Commission to reject Con Edison's proposals to modify rates for large, commercial customers by shifting greater revenue responsibility from the energy charges to demand charges. This testimony also urged rejection in this proceeding of the Company's proposal to institute an Earnings Adjustment Mechanism, although, if such a mechanism were instituted, SolarCity recommended that additional resources be made available to the Department of Public Service so that it can timely review project proposals and, if necessary, resolve disputes between the developer and the Company. The SolarCity testimony also reviewed plans for Advanced Metering Infrastructure (AMI) and emphasized the need for the Company to assume some of the risk associated with this investment. The testimony made specific recommendations to modify the mechanism for the recovery of the AMI investment and the recovery of the stranded costs associated with existing advanced meters recently installed by Con Edison.

SolarCity also provided testimony on the data and data sharing needs associated with efforts to introduce and develop

Distributed Energy Resources (DERs). In this regard, the testimony describes the minimum data set needed to develop robust methodologies and to make effective decisions. In this discussion, SolarCity also voiced specific concerns about the BCA and other processes used by Con Edison to screen DERs for viability as a non-wires alternative. Finally, the SolarCity testimony discusses and recommends several score card metrics which could be usefully applied to the interconnection process.

Time Warner Cable (TWC)

In its pre-filed testimony, TWC described two areas in which Con Edison's SC 2 I tariff may over-recover from customers such as TWC which are provided unmetered electric service to TWC equipment (Cable TV (CATV) power supplies and antennae). Because of the nature of this equipment and its functions, the service has very low usage, but with a very high (100%) load factor. First, based on the Company's ECOS study, TWC asserted that all customers in the SC 2 I rate class provide revenue to support the meters and metering costs for service from that class. TWC points out, however, that its service is unmetered and its consumption is too low and its load factor is too high to justify the installation of meters. TWC argues, therefore, that the rate charged for the SC 2 I service to power the CATV power supply and antennae equipment should not include a cost for meters or for metering operations and maintenance.

The TWC testimony describes an exception found in Special Provision D of the current SC 2 I tariff by which service to "radio transceivers" located on street lights or utility distribution poles is provided at a 50% discount on the Customer Charge. TWC asserted that its equipment is not a "radio transceiver", but that, like service to a "radio transceiver", service to the TWC equipment is unmetered, is provided at a very high load factor, and has very low usage.

TWC asserted that a special provision, similar to Special Provision D, should be added to this tariff.

Utility Workers Union of America, AFL-CIO Local 1-2 (Local 1-2)

Local 1-2's pre-filed testimony asserted that Con Edison relies too heavily on contractors to perform "typical day-to-day utility work". The Company, it asserted, "lacks sufficient full-time staff to meet its day-to-day obligations". Further, Local 1-2 also asserted that the introduction of AMI means that Con Edison will reduce the need for Con Edison meter readers, but that the Company has no plan to protect the interests of its work force.

Environmental Defense Fund (EDF)

The EDF pre-filed direct testimony was provided to supply for the record information on the use of leak quantification, as well as leak detection, to prioritize the work which will be done by the Company to replace leak prone pipe.

The EDF testimony also recounts the ways in which Con Edison should develop additional, improved or enhanced metrics to evaluate: AMI implementation, the Company's Digital Customer Experience (DCX) and its portal, low income customer use of the DCX portal, access to real time data from AMI through the DCX portal, customer engagement in the AMI program, time variant pricing or demand response, distributed energy resources such as photovoltaics, Conservation Voltage Optimization (CVO), and environmental benefits from AMI implementation.

Pace Energy and Climate Center (Pace)

In the first portion of its pre-filed direct testimony, PACE voiced its conclusion and recommendation that the Company's proposal to allocate some High Tension Primary

Distribution System costs to Customer Costs was not justified and should be denied. Pace also observed that the Company would, in the near future, begin to undertake new activities which may not be readily addressed by the conventional ECOS practices. In light of this, Pace recommended that the Company should develop a process for enhancing the precision in its functionalization of costs related to the various activities it now undertakes. Similarly, regarding the Company's rate of return, Pace asserted that it will be necessary for the Company to develop a proposal for differentiated rates of return appropriate to the greater variety of functions for which it will be responsible in the future. This portion of the Pace testimony concluded with several recommendations for steps the Company can take to be more supportive of vehicle electrification and electric vehicle charging infrastructure deployment.

In the next portion of its testimony, Pace described several proposed improvements to the metrics the Company could use to evaluate the impact of its AMI program. In Pace's view, additional metrics should be provided to measure and track: the Company's customer outreach, education and customer training on AMI; the number and percentage of AMI supporting home area network and building area network devices; energy usage reductions for customers who use the DCX on-line portal; training about and effectiveness of AMI meters in reducing energy usage; reporting frequency; and customer sharing of information with third parties via Green Button Connect. With respect to customer engagement, Pace recommends that the Company develop and use metrics which measure the frequency with which customers sign on to the Company's online Portal on a weekly, monthly or quarterly basis. Regarding the Portal, Pace recommends that it should be available to customers through the

Portal as soon as the AMI meters are installed and that customers should be able to access this data through any web-enabled device. Pace also recommends additional metrics to measure the benefits of DG integration and optimization, DSP functionality, the utilization of DERs for system planning and operations, and the extent to which customers take advantage of Time-of-use (TOU) or TVP tariffs. Finally, the Pace testimony sought monthly or quarterly reporting on the role AMI has played in: increased transparency of the grip system, the system's capability for increased DERs, impacts on constrained transmission zones, the provision of new services, speeding interconnection time and lowering interconnection costs, the development of new markets, and total payments to DERs in each market.

The third piece of Pace testimony addressed standby rates, proposed a new option for specifying the standby contract demand for a standby customer, and sought a pilot to test the new alternative.

The fourth piece of Pace testimony addressed microgrids and sought a requirement that the Company be more proactive in identifying potential microgrid sites. The testimony also identified the several factors which the Company should use to identify promising microgrid opportunities. Using these criteria, the testimony suggests that Con Edison should develop identified high-value locations for one or more demonstration projects. In developing its interconnection and operations specifications for these and other microgrid projects, the Pace testimony urged that Con Edison reach out and consult with third party microgrid developers.

The final piece of Pace testimony sought Commission support and full funding for the continuation and completion of

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the Climate Change Vulnerability Study which was recommended to and endorsed by the Commission in the Company's 2013 rate cases.

ATTACHMENT C

Tariff Amendments and Supplements

Subject: Filings by CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

Amendments to Schedule P.S.C. No. 10 - Electricity

First Revised Leaves Nos. 92, 93, 333, 335  
Second Revised Leaves Nos. 56, 94, 136, 139, 142,  
195, 197, 368, 373.1, 387, 419  
Third Revised Leaves Nos. 16, 154, 193, 196, 198,  
199, 200  
Fourth Revised Leaves Nos. 121, 122, 126, 171,  
201, 337, 344, 352, 358, 389.1, 452.1, 453.1,  
459.4  
Fifth Revised Leaves Nos. 336, 343.1  
Sixth Revised Leaves Nos. 95, 119, 157.4, 245, 395  
Seventh Revised Leaves Nos. 181, 192, 389, 398,  
406, 408, 409, 410, 416, 432, 435, 437, 438, 439,  
449, 451, 452, 453, 463, 479, 480, 483, 485, 486,  
487, 488, 495, 496  
Eighth Revised Leaves Nos. 177, 388, 397, 445  
Ninth Revised Leaf No. 446  
Fourteenth Revised Leaf No. 351

Individually Negotiated Contracts Addendum No. 3

Suspension Supplement Nos. 34, 35, 40

Amendments to Schedule P.S.C. No. 12- Electricity

Second Revised Leaves Nos. 27, 29  
Third Revised Leaf No. 25  
Fourth Revised Leaves Nos. 26, 26.1  
Seventh Revised Leaves Nos. 4, 5, 6, 7, 8, 9  
Eighth Revised Leaf No. 10  
Ninth Revised Leaves Nos. 14, 22  
  
Suspension Supplement Nos. 16, 17, 20

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

Original Revised Leaves Nos. 38.3, 38.4, 183.4, 183.5  
First Revised Leaves Nos. 12, 13, 14, 38.2, 178.2, 291, 292, 351, 352, 354, 356, 357  
Second Revised Leaves Nos. 15, 38.1, 51, 154.20, 154.21, 190, 293, 297, 300.1, 300.2, 353, 355  
Third Revised Leaves Nos. 154.4, 154.22, 227, 244, 294, 295, 299, 341.4, 368  
Fourth Revised Leaves Nos. 125, 154.2, 154.3, 154.5, 154.10, 154.23, 154.28, 181.1, 183.3, 298, 316.4, 323, 333, 334  
Fifth Revised Leaves Nos. 2, 127, 154.11, 163, 181.2, 367.1, 367.2, 371  
Sixth Revised Leaves Nos. 117, 154.1, 171, 173, 367, 376  
Seventh Revised Leaves Nos. 154.7, 235, 324, 326, 331, 341.3, 377  
Eighth Revised Leaves Nos. 76.1, 154.27, 157.1, 251, 259  
Ninth Revised Leaves Nos. 6, 158, 162, 178.1, 300.3  
Tenth Revised Leaves Nos. 128, 183.2, 275  
Eleventh Revised Leaves Nos. 165, 166.2, 303.2  
Thirteenth Revised Leaves Nos. 180, 274, 303.1  
Fourteenth Revised Leaves Nos. 154.25, 154.26, 166, 234, 332  
Fifteenth Revised Leaves Nos. 154.6, 154.8, 155, 181, 243  
Sixteenth Revised Leaf No. 156  
Seventeenth Revised Leaves Nos. 154.18, 154.24, 182, 272  
Eighteenth Revised Leaves Nos. 5, 154.9  
Nineteenth Revised Leaf No. 152  
Twentieth Revised Leaves Nos. 230, 270, 271  
Twenty-First Revised Leaf No. 269  
Twenty-Second Revised Leaf No. 349  
Twenty-Third Revised Leaves Nos. 228, 240  
  
Suspension Supplement Nos. 70, 71, 74

Amendments to Schedule P.S.C. No. 10 - Electricity

Original Leaf No. 157.1.1  
First Revised Leaf No. 167.1  
Second Revised Leaf No. 157.1  
Third Revised Leaves Nos. 157.2, 157.3  
Fourth Revised Leaf No. 385  
Seventh Revised Leaf No. 157.4

Postponement Supplement Nos. 36, 37

Amendments to Schedule P.S.C. No. 12 - Electricity

Original Leaf No. 17.1.1  
Second Revised Leaf No. 17.1

Postponement Supplement Nos. 18, 19