



Law Department

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January 18, 2008

Via Overnight Delivery Service

Hon. Jaclyn A. Brillling
Secretary
Public Service Commission
Building 3
Empire State Plaza
Albany, New York 12223-1450

Case No. 00-G-0996 - In the Matter of Criteria
for Interruptible Gas Service -- Comments

Dear Secretary Brillling:

Enclosed please find an original and five (5) copies of the "Comments of Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc. on Notice Soliciting Comments" in response to the Commission's Notice issued on December 5, 2007 in the above-captioned case.

Would you kindly return a stamped copy of this letter to me in the enclosed self-addressed, postage-paid, envelope. Thank you.

Sincerely,

A handwritten signature in cursive script that reads 'Jeffrey L. Futter'.

Jeffrey L. Futter

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

Case 00-G-0996 - In the Matter of Establishment of Criteria for Interruptible Gas Service

**COMMENTS OF
CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.
AND ORANGE AND ROCKLAND UTILITIES, INC. ON
NOTICE SOLICITING COMMENTS**

Pursuant to the Commission's Notice Soliciting Comments issued in the above-captioned proceeding on December 5, 2007 ("December Notice"), Consolidated Edison Company of New York, Inc. ("Con Edison") and Orange and Rockland Utilities, Inc. ("O&R") (collectively, "the Companies") hereby submit their joint comments on whether any changes should be made to (i) the tariffs of local distribution companies/gas utilities ("LDCs") and/or (ii) the alternate fuel inventory requirements for interruptible gas customers in light of the findings contained in the Petroleum Infrastructure Study ("Study") and the comments on the Study submitted by interested parties in April 2007. In their April 2007 comments, the Companies, citing the Study's findings and conclusions, recommended that the Commission's existing alternate fuel inventory requirements for distillate oil users be expanded to cover all alternate fuel users, including residual oil users.¹

In these comments, the Companies wish to reemphasize that recommendation as well as respond to the other issues set forth in the December Notice. In short, other than expanding the Commission's existing alternate fuel oil inventory requirements to cover

¹ Case No. 00-G-0996 - In the Matter of Establishment of Criteria for Interruptible Gas Service, "Comments of Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc. on Notice Soliciting Comments", dated April 30, 2007, at 1, 4-8 (hereafter, "April 2007 Comments").

all alternate fuel users, the Companies do not recommend making any other changes to LDCs' tariffs or the alternate fuel inventory requirements for interruptible gas customers.

1. The Commission's Current Alternate Fuel Inventory Requirements

Currently, on a statewide basis, interruptible gas customers are required to have provable storage capacity and/or alternate fuel under contract to withstand interruptions of service for at least seven (7) days in the case of Temperature Control ("TC") customers and ten (10) days for on demand ("Notification") interruptible customers. Interruptible customers lacking sufficient storage space on site to hold either seven or ten days of supply were required to enter the heating season with filled tanks and arrangements (e.g., a contract) suitable to the LDC (but not dependent on spot market purchases) for replenishment of storage inventories such that the initial storage plus replenishment equals the minimum alternate fuel inventory for its type of service.²

Because the alternate fuel shortfall in the 1999-2000 winter was in distillate oil,³ the Commission's requirements were applicable only to interruptible customers using distillate oil and to interruptible customers serving human needs end users, such as hospitals, nursing homes and apartment houses regardless of the type of alternate fuel used.⁴ The August 2000 Order, however, also stated that:

Other alternate fuel users are on notice, however, that they must still have adequate supplies to meet periods of interruption, but we will not specify what minimum amount that should be. We stand ready to expand the applicability of these rules if future situations warrant change.⁵

² Case No. 00-G-0096, Order Directing Utilities to File Revised Interruptible Gas Service Tariffs (issued August 24, 2000), p. 14, ("August 2000 Order").

³ Distillate includes diesel, kerosene and No. 2 fuel oil.

⁴ August 2000 Order, pp. 5-6.

⁵ Id., p.6.

After the next winter (2000-2001), the Commission adopted Staff's recommendation and required contract interruptible customers, including electric generators, to maintain a five-day fuel inventory at maximum winter burn (and be subject to payment of higher rates for non-compliance).⁶

In response to separate tariff filings made by the Companies, the Commission approved tariff changes related to the Companies' service to interruptible customers, effective December 1, 2001, including the requirement that any new interruptible or Off-Peak Firm customer with alternate fuel capability (regardless of its type of alternate fuel) must have at least three (3) days of on-site inventory based on its peak winter period requirements.⁷

II. Reply to Specific Issues in the December Notice

The December Notice states that “[t]he Commission is now considering whether the analysis and conclusions of that [S]tudy, and the comments subsequently received, demonstrate a need for changes regarding the following issues: [7 issues listed].” The Companies will address the seven issues in the order presented in the December Notice.

1. Should the Commission's rules and regulations which are applicable to interruptible gas customers having distillate oil as their alternate fuel be expanded to include residual oil or all alternate fuel users?

Companies' Reply: In their April 2007 Comments, the Companies, citing key findings in the Study, urged that the Commission's rules and regulations applicable to interruptible customers having distillate oil as their alternate fuel be expanded to cover all alternate fuels, including residual fuel oil. In describing the New York portion of the Study area's

⁶ Case No. 00-G-0996, Memorandum Order (adopting Staff recommendation), issued October 17, 2001.

⁷ Case Nos. 01-G-1105 and 01-G-1092, Memorandum Order (adopting Staff recommendation), issued November 28, 2001, pp. 3, 8.

vulnerability to any disruption of the petroleum import system, “whether caused by human activity or by severe weather.” the Study found:

Within the region, products are distributed by barge, tanker, pipeline, rail, and truck, all of which may be subject at times to severe weather delays.

Relying on long supply lines requires adequate storage at the point of demand. However, over the last decade advances in technology and management processes have resulted in much lower inventories – the petroleum industry’s version of ‘just in time’ stocks. While these changes have brought efficiency and lower operating costs, they have also brought inflexibility and problems responding to unexpected emergencies and demand surges.⁸

The Companies noted that these Study conclusions were made with respect to all oil deliveries and inventory storage in the New York Study area – without distinguishing between types of fuel oils such as distillate and residual.⁹ Second, in drawing conclusions about the physical infrastructure of the petroleum industry, the Study noted that all types fuel oil shipments could be delayed for reasons “beyond anyone’s control” into the Study area, but even assuming they were not, there still is a distribution problem in the area:

According to the data supplied in the survey from the heating oil distributors, snow and ice reduce deliveries of supplies by 30 percent on average....The 30 percent reduction is based on average winter conditions. However, if major wholesale terminals, or tanks continue to close, this 30 percent will be exacerbated.

The IRS data highlights another problem. Inventory at wholesale terminals can fall precipitously low in cold winters, particularly on Long Island. If this trend is

⁸ Study, ES-5 (emphasis added).

⁹ It should be noted that about 22% of Con Edison’s interruptible customers use residual fuel oils which, by law, must be low-sulfur in content; and this represents more than 20% of Con Edison’s interruptible load (not including power generators). Accordingly, even if reported inventory data for residual fuel oil were to indicate that it is sufficient today to meet the area’s needs, the data does not break down the residual oil inventory by sulfur content. Therefore, there could be the appearance of adequate reserve levels of residual oil in the aggregate, but, without definitive data identifying the inventory levels of low-sulfur residual oil available to interruptible customers in the downstate region, this could result in a false sense of assurance of such levels of residual oil, which, as noted above, is utilized to a significant degree by Con Edison’s interruptible gas load.

combined with [an] increasing number of natural gas interruptible customers, and possible future closures of terminals then the area is heading towards a major problem in severe winters.¹⁰

Again, the Study's conclusions regarding petroleum distribution problems were not limited to the only fuel oil that is currently covered in the Commission's inventory requirements, distillate fuel oil, but were reached with respect to all fuel oils delivered into the New York Study area. Given the Study's findings described above, it makes sense to apply the Commission's fuel oil inventory reserve requirements to these other alternate fuel users.¹¹

2. Should on-site oil storage be preferred, or required, versus contract commitments/arrangements?

Companies' Reply: As noted above, pursuant to the directive issued by the Commission in August 2000, the Companies each already have a tariff requirement that any new interruptible or Off-Peak Firm customer with alternate fuel capability (regardless of its type of alternate fuel) must have at least three (3) days of on-site inventory based on its peak winter period requirements. Based on past operating experience, the Companies believe that it is not necessary to mandate that all existing interruptible customers have a certain number of days of required on-site inventory.

¹⁰ Study, pp. 105-106.

¹¹ In fact, pursuant to the August 2000 Order, the Companies each have tariff authority to set inventory levels for other alternate fuel users that are not covered by the Commission's existing statewide criteria applicable only to distillate users. The Companies have successfully utilized such authority by requiring their non-distillate-oil interruptible customers to certify in an affidavit prior to the winter heating season that they have either a 10 or 7 day supply, as applicable, of their specific alternate fuel oil. Applying the existing statewide inventory standards to all interruptible customers would avoid needless and unwarranted challenges to the Companies' exercise of their tariff authority to set appropriate inventory levels for other than distillate fuel users.

3. Should on-site oil storage requirements differ by geographical location?

Companies' Reply: The Companies believe that on-site requirements should differ by geographical region to the extent geographical needs and/or risks are different and note that the Study's assessment area was limited to New York City, Long Island and the Hudson Valley up to Albany.

4. Should interruptible gas customers be required to burn their alternate fuel during certain periods during the winter months?

Companies' Reply: The Companies see no basis for imposing such a requirement. In its April 2007 comments, the Empire State Petroleum Association ("ESPA") simply stated its belief "that by mandating interrupted periods of known duration, such as ten days per month, the industry can better plan ahead for its supplies prior to the commencement of the heating season." See, ESPA April 2007 Comments at 12. ESPA's request is blatantly self-serving and its comments do not establish that such a requirement is necessary in order for interruptible gas customers to meet their alternate fuel inventory requirements.

5. For new applications for interruptible gas service, should on-site oil storage be required, and if so, how much?

Companies' Reply: See response to Question #2 above.

6. Should the number of days of required on-site oil storage, or contracted amounts, for electric generators that burn gas on an interruptible basis be modified?

Companies' Reply: The Companies have found that for generators in their service territories the current requirement of 5 days (at maximum winter burn) of on-site

and/or contracted amounts for electric generators that use distillate oil as their alternate fuel is adequate. For the reasons explained above, the 5-day statewide requirement should be expanded to cover all alternate fuels used by electric generators, including residual fuel oil.

7. Should there be regular/periodic reporting by utilities and/or the Commission of the price and inventory levels of natural gas?

Companies' Reply: On a monthly basis, the Companies (i) file with the Commission statements setting forth their respective interruptible sales and transportation rates prior to their effective date; (ii) post such rates on their respective web sites; and (iii) submit to Staff their combined gas storage inventory quantities (broken down by production area, market area and distribution area). There has been no demonstration that any additional information should be posted or reported, especially given the competitive nature of the energy industry. For example, Company-specific natural gas storage levels at any point in time are commercially sensitive information and, if publicly disclosed, could prejudice an LDC's negotiating position with its gas suppliers to the detriment of its gas customers. The Companies note that public reporting of gas industry-wide storage information is currently done on an aggregate basis by DOE/EIA.

Conclusion

For the reasons set forth above, the Commission's existing alternate fuel inventory requirements for distillate users should be expanded to encompass all alternate fuel users, including residual fuel oil users. At this time, the Companies recommend that no other changes to the Commission's alternate fuel inventory requirements for interruptible gas customers be mandated.

Respectfully submitted,

CONSOLIDATED EDISON COMPANY
OF NEW YORK, INC.
and
ORANGE AND ROCKLAND UTILITIES,
INC.

By: 

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