

Filed Session of March 14, 2013  
Approved as Recommended  
and so Ordered  
by the Commission

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JEFFREY C. COHEN  
Acting Secretary

Issued and Effective March 19, 2013

STATE OF NEW YORK  
DEPARTMENT OF PUBLIC SERVICE

February 27, 2013

TO: THE COMMISSION

FROM: OFFICE OF CONSUMER POLICY

SUBJECT: CASE 12-E-0151 – Petition of Meadow Manor Holdings LLC to Submeter Electricity at Meadow Manor Apartments, 3412 113<sup>th</sup> Street, Flushing, New York located in the territory of Consolidated Edison Company of New York, Inc.

RECOMMENDATION: It is recommended that the Commission approve the petition to submeter.<sup>1</sup>

The Application

By letter dated March 26, 2012, Meadow Manor Holdings LLC (Owner) requested permission to submeter electricity at Meadow Manor Apartments, 3412 113th Street, Flushing, New York (Meadow Manor). Meadow Manor is a master-metered building comprised of 132 residential rental units. All of the units, with the exception of

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<sup>1</sup> We have converted the Petition to Submeter in this case to a Notice of Intent to Submeter. The contents of a Notice of Intent to Submeter and the nature of a submetering proposal that may be addressed in a Notice of Intent to Submeter are set forth in the recently revised submetering regulations adopted in Case 11-M-0710, In the Matter of Reviewing and Amending the Electric Submetering Regulations, Memorandum and Resolution Adopting Residential Electric Submetering Regulations (issued and effective December 18, 2012). Consistent with those regulations, a Notice of Intent to Submeter receives a presumption in favor of approval.

the building supervisor apartment, are rent stabilized under the jurisdiction of the New York Homes and Community Renewal (HCR). One of the units receives a Disability Rent Increase Exemption (DRIE) and 9 other units receive a Senior Citizen Rent Increase Exemption (SCRIE).<sup>2</sup> The Owner states that the building is master-metered by Consolidated Edison Company of New York, Inc. (Con Edison) and each residential unit will be submetered. The residential units are not electrically heated and heat is included in the rent.<sup>3</sup>

In accordance with the State Administrative Procedure Act (SAPA) §202(1), the petition was noticed in the State Register on April 18, 2012. The comment period ended on June 4, 2012. One tenant filed a letter seeking clarification on the treatment of the HCR rent reduction after submetering is commenced.

#### Background

The Notice involves the submetering of electricity at master-metered residential rental buildings and requires Commission approval on a case-by-case basis in accordance with 16 NYCRR §96.3.

The Petitioner provided the following information, which is required by the newly adopted 16 NYCRR §96.5 as a condition to submeter: a description of the type of submetering system to be installed (§96.5(a)); a description of the methods to be used to calculate the bills for individual residents when submetering is implemented, including the methods to be used to determine that the submetered bills, when rendered, will comply with the rate cap as set forth in the regulations (§96.5(b)); a detailed plan for complying with the provisions of HEFPA (§96.5(c)); a completed “Submeterer Identification Form” (§96.5(d)); a description of the method to be used to back out

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<sup>2</sup> Under the DRIE and SCRIE programs, eligible tenants receive exemptions from rent increases while the property owners receive a credit against their real estate taxes from the City of New York. These tenants will continue to have electricity remain as part of their rent and will not be billed for submetered electricity in accordance with HCR regulations.

<sup>3</sup> The building provides heating through dual fuel boilers using oil and natural gas.

electric charges from rent (§96.5(e)); a lease rider consistent with the 16 NYCRR §96.5(f); proof of service that the Notice of Intent to Submeter was sent from the prospective submeterer to Con Edison (§96.5(g)); a description of the electric energy efficiency measures that have been or will be installed (§96.5(i)); and a description of the information and education programs that will be provided to residents on how to reduce electric usage (§96.5(j)). In addition, the Owner has committed to the replacement of 109 refrigerators which are 10 years or older with Energy Star® models within 45 days of Commission approval of the submetering proposal, and, therefore, is in compliance with 16 NYCRR §96.5(h).<sup>4</sup>

While the majority of units at the premises are rent-stabilized, only ten of the units receive income-based housing assistance. Therefore, the Petitioner is not required to comply with newly-enacted 16 NYCRR §96.5(k).

The Owner submitted an affidavit to attest that all of the tenants were provided notice of the intent to submeter on April 17, 2012. The notice included general information on submetering; benefits of submetering; the rate cap and billing information; an overview of consumer protections; the SAPA process and comment period; the dispute resolution process, including contact information for the building manager and the Department of Public Service; and, energy conservation tips. Subsequently, at Staff's recommendation, the tenants received a revised notice on June 5, 2012 which provided additional information regarding billing methodology and rate calculation.

#### Tenant Comments

One tenant submitted a letter seeking clarification on the treatment of the HCR rent reduction allocation. The Owner submitted a copy of its June 12, 2012 response to the tenant which explained HCR's Operational Bulletin 2003-1 which

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<sup>4</sup> The remaining 23 units have EnergyStar® rated refrigerators that are no more than 5 years old.

includes a schedule of rent reductions for rent stabilized apartments after the conversion to submetering.

Discussion

The Notice of Intent to Submeter at Meadow Manor Apartments complies with the submission requirements of 16 NYCRR § 96.5. Pursuant to 16 NYCRR §96.3(a)(3), the provision of a complete Notice of Intent to Submeter receives a rebuttable presumption that such metering is in the public interest and is consistent with the provision of safe and adequate service to residents and, therefore, meets the Commission’s requirements for submetering of an existing residential rental building. We have no information that disputes this rebuttable presumption.

The Owner has committed to replacing the 109 refrigerators that are 10 years or older with Energy Star® models within 45 days of Commission approval of submetering.<sup>5</sup> The 45 day replacement period falls within the notice period required by §96.3 (c)(3) and therefore the commencement of submetering will not occur until the 109 refrigerators have been replaced.<sup>6</sup>

Therefore, approval to submeter electricity should be granted. Pursuant to 16 NYCRR §96.3(c), before submetering may commence, the submeterer must provide prior individual notices to affected tenants.<sup>7</sup> Any changes to the HEFPA Plan or the Submetering Identification Form shall be filed with the Department of Public Service under Case 11-M-0710 in accordance with 16 NYCRR §96.6(i).

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<sup>5</sup> The remaining 23 units have EnergyStar® rated refrigerators that are no more than 5 years old.

<sup>6</sup> 16 NYCRR §96.3(c)(3) requires that “After submetering is authorized pursuant to this Part, the submeterer shall notify residents individually no less than 2 months prior to the actual commencement of billing for submetered electric service.”

<sup>7</sup> A management or ownership change would not affect this approval.

Recommendation

Subject to the conditions described in the body of this Order and the conditions to submeter adopted by the Commission in 16 NYCRR §96.6, the Notice of Intent to Submeter appears to be adequate and reasonable, and in compliance with applicable Commission regulations. It is recommended that:

1. The Commission approve the submetering of electricity at Meadow Manor Apartments, 3412 113<sup>th</sup> Street, Flushing, New York.
2. Meadow Manor Holdings LLC be directed to notify residents individually no less than two months prior to the actual commencement of billing for submetered electric service and to file with the Office of the Secretary a copy of the notice provided to all affected tenants of the date upon which submetering will commence as required by 16 NYCRR § 96.3(c)(3).
3. The proceeding is closed pending compliance with ordering clause 2.

Respectfully Submitted,

HONOR MARIE KENNEDY  
Utility Consumer Specialist III  
Office of Consumer Policy

Reviewed by:

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Office of General Counsel

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Office of Consumer Policy

Approved by:

DOUGLAS W. ELFNER  
Director  
Office of Consumer Policy



**New York State Public Service Commission  
Office of Consumer Services**



**Submetering Identification Form**

Name of Entity			Corporate Address		
City	State	Zip	Web Site		
Phone			Utility Account Number		
Chief Executive			Account Holder Name		
Phone			E-mail		
DPS Case Number:					

**Primary Regulatory Complaint Contact**

**Secondary Regulatory Complaint Contact**

Name			Name		
Phone			Phone		
Fax			Fax		
E-mail			E-mail		
Address			Address		
City	State	Zip	City	State	Zip

***We do not send complaints to personal e-mail addresses. A shared e-mail address must be provided or the transmission will default to the fax number listed above. Please enter the e-mail address, if any, to which we should send complaints: \_\_\_\_\_***

Name of Property			Address		
City	State	Zip			
Electric Heat? Y / N			Electric Hot Water? Y / N		
# Units Occupied by: Sr. Citizens Disabled			Total # of Units		
Rent Stabilized	# Rent Controlled		# Rent-Regulated		# Market Rate
# Low Income	# Section 8		# Landlord Assist Program		# Other
Submeter / Billing Agent			Address		
City	State	Zip			
Contact Name		Contact Phone	Contact Fax		

Please return this form with 5 days to:

Mr. Jeffrey C. Cohen, Acting Secretary to the Commission  
 NYS Public Service Commission  
 3 Empire State Plaza  
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(Rev. 12/27/2012)

**Changes in contact information should be submitted within 5 days of any personnel change.**