

Filed Session of June 16, 2011
Approved as Recommended
and so Ordered
by the Commission

JACLYN A. BRILLING
Secretary

Issued and Effective June 23, 2011

STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

May 30, 2011

TO: THE COMMISSION

FROM: OFFICE OF CONSUMER POLICY

SUBJECT: CASE 10-E-0489 – Petition of Union Grove Associates, LLC to submeter electricity at 1468 Hoe Avenue, a/k/a Rev. Fletcher C. Crawford Housing, Bronx, 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.

The Application

By letter dated October 1, 2010, Union Grove Associates, LLC (Petitioner) requested permission to submeter electricity at 1468 Hoe Avenue, Bronx, New York (1468 Hoe Avenue). 1468 Hoe Avenue is a newly constructed building which will include 84 residential rental units. All units will be rent stabilized under the New York State Homes and Community Renewal (HCR) guidelines.

The Petitioner states that the building will be master-metered by Consolidated Edison Company of New York, Inc. (Con Edison or the Company) and each residential unit will be submetered. The building is not electrically heated.¹ The

¹ 1468 Hoe Avenue is heated with natural gas. Heat will be provided on a rent-included basis.

Petitioner provided notice of its petition to submeter to Con Edison by letter dated October 1, 2010.

State Administrative Procedure Act

In accordance with the State Administrative Procedure Act (SAPA) §202(1), the petition was noticed in the State Register on October 12, 2010. The comment period ended on December 13, 2010. No comments were received.

Commission Approval Required

The petition concerns the submetering of electricity at new master-metered residential rental units owned or operated by private or government entities. Therefore, the petition requires Commission approval on a case by case basis in accordance with 16 NYCRR §96.2(c).

The Submetering Plan

Electric usage at 1468 Hoe Avenue will be metered by a utility master-meter that records electric usage for the entire building. Each unit's electric usage will be measured by an Intech 21 Corporation PM-2104 meter (PM-2104). According to the Petitioner, the PM-2104 complies with the current reliability and accuracy standards of the American National Standards Institute (ANSI C-12). The PM-2104 is capable of recording electric usage for each unit in 15 minute intervals and that data is downloaded daily, via a built in wireless network communication device, to a central server where it can be accessed for tracking of individual load profiles. All meter reading data and billing calculations will be documented and maintained for a six year period. The PM-2104 may be upgraded to utilize more advanced metering if required. The Petitioner has advised that the submetering system is capable of disconnecting electric service to individual apartments but the Petitioner will not disconnect service to any tenant for failure to pay an electric bill.

A. Benefits of Submetering

The Petitioner states that submetering will allow for fair energy cost allocation based on actual residential consumption. The PM-2104 also has the capability of producing daily data for usage analysis and the convenience of remote meter reading

so entry into the building is not required. This communication system will allow a more cost-effective metering system due to the elimination of control wiring.

B. Residents' Submetered Rates

The Petitioner states that the rates and charges paid by the residents will be based on the amount charged by Con Edison at the SC-8 (Multiple Dwellings Redistribution) rate. Specifically, an average kilowatt hour (kWh) rate will be calculated monthly by dividing the total amount of the Con Edison bill by the total kWhs used by the building as stated on the Con Edison bill. The charge for each tenant will be calculated by multiplying the average kWh by the kWhs used by the tenants measured by the submeter. A \$4.00 administrative charge will be added to each bill. These total charges will be compared to what the tenant would have been charged if they were an SC-1 customer of Con Edison and the lower of the charges will be the rate at which the tenant is billed. In no event will the total submetered charges for any resident (including the \$4.00 monthly administrative charges) exceed Con Edison's SC-1 rate for directly metered service.

American Metering & Planning Services, Inc., as the Petitioner's billing company, will read the submeters monthly and render bills based on the actual usage of each unit. Tenant electric bills will include: opening and closing meter reads and dates; kWh usage during the period; breakdown of dollar amounts billed; total charge for the period; and, the total amount due.

Each residential unit will be equipped with Energy Star® appliances, including a Bloomberg refrigerator; GE dishwasher and microwave; Bosch washer and dryer; and, water conserving fixtures. In addition, Energy Star® compliant windows will be installed in each unit. Petitioner will provide all tenants with energy efficiency information that includes measures that they may employ to further mitigate energy usage and costs. In its filing the Petitioner has included a Tenant Energy Efficiency Plan that, among other things, directs tenants to the New York State Energy Research and Development Authority's (NYSERDA) website for information on additional energy efficiency measures.

C. Consumer Protection and Complaint Procedures

In the event that there is a complaint regarding electric charges, the tenant should contact the property manager. The property manager will investigate and respond to the tenant's complaint, in writing, within ten days of receipt of the complaint. If the tenant is not satisfied with the property manager's response, the tenant may file a protest within 14 days from the date of the response. The tenant may contact the Department of Public Service at any time regarding a complaint about submetered service. The Petitioner submitted a detailed Home Energy Fair Practices (HEFPA) Plan which includes an "Annual Notification of Rights" document which provides information on the: complaint process; termination or disconnection of service; reconnection of service; special procedures regarding medical emergencies, life support, elderly blind or disabled customers; cold weather periods; special notification of social services; voluntary third-party notice; deferred payment agreements; budget or balanced payment plans; quarterly billing plans; deposits; and, late payment charges. Sample documents for implementation of HEFPA were submitted as part of the petition.

D. Resident Notification

There are currently no residents at 1468 Hoe Avenue. All future tenants will be provided notice of the submetering system in their leases which will include: information about the submetering system; how bills will be rendered and rates will be calculated; the benefits of submetering; the complaint resolution process, including contact information for the Department of Public Service; and, information on ways to further reduce electricity costs.

Discussion

Submetering is economically advantageous over direct metering in that the installation and maintenance costs, in addition to the building's total electricity costs, will be lower. According to the Petitioner, the submetering system to be used at 1468 Hoe Avenue complies with ANSI C-12 standards for reliability and accuracy. Submetering may encourage tenants to further reduce energy costs and electric consumption through additional conservation measures. The petition provides for a rate cap, consumer

protections and grievance procedures. A lease rider will notify each future tenant that his or her unit is submetered for electricity. The lease provision will, in plain language, clearly state the grievance procedures for the residents and will specify the rate caps and tenant protections, and such provisions will be in compliance with HEFPA. These protections include, but are not limited to deferred payment agreements pursuant to Public Service Law (PSL) §37 and 16 NYCRR Part 11, budget or balanced billing plans as set forth in PSL §38 and 16 NYCRR Part 11, the complaint handling procedures contained in PSL §43 and 16 NYCRR Part 11, and the special protections for medical emergencies, elderly, blind and disabled customers and for cold weather periods as set forth in the PSL §32 16 NYCRR Part 11.²

The petition to submeter 1468 Hoe Avenue meets the Commission's requirements for submetering of a newly constructed residential building owned or operated by private or government entities and approval to submeter electricity to the residents should be granted.³ However, this approval is contingent on Union Grove Associates, LLC filing with the Secretary to the Commission, within 15 days of issuance of this Order, a completed Submetering Identification Form. Any future changes to the HEFPA Plan or the Submetering Identification Form shall also be filed with the Secretary.

Recommendation

The submetering proposal, appears to be adequate and reasonable, and is in compliance with applicable Commission regulations. It is therefore recommended that:

1. The Commission approve the submetering of electricity at 1468 Hoe Avenue, Bronx, New York.

² Case 08-E-0439, Riverview II Preservation, LP – Submetering, Order on Reconsideration (issued February 18, 2010) and Case 08-E-0439, Riverview II Preservation – Submetering, Order Denying Petition for Rehearing (issued June 25, 2010).

³ A management or ownership change would not affect this approval.

2. Union Grove Associates, LLC shall file with the Secretary to the Commission within 15 days of issuance of this Order, a completed Submetering Identification Form.

3. Union Grove Associates, LLC or its successors shall file an updated Submetering Identification Form and/or the Home Energy Fair Practices Act Plan if any information contained in these documents changes.

4. The proceeding is closed pending compliance with clauses 2 and 3, above.

Respectfully Submitted,

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