

or infiltration of air.² Prior to the commencement of submetering, the Owner will distribute, or cause to be distributed, to the tenants information regarding ways in which the tenants can reduce their electric usage. As apartments are vacated at Lafayette Boynton, the Owner will replace older appliances with Energy Star rated appliances. Tenants will also be able to choose to replace their existing appliances with Energy Star rated ones, subject to the commensurate rent increase as set forth by New York law and/or New York State Homes and Community Renewal (“HCR”) rules and regulations.

As set forth below, the Owner’s submetering plan satisfies the requirements of 16 NYCRR § 96.2 (b). Accordingly, the Owner respectfully requests that the Commission approve this petition.

1. Economic advantages of submetering over direct utility metering

The Intech submetering system to be installed in Lafayette Boynton will include remote reading capabilities. This communication will allow a more cost-effective submetering system due to the elimination of control wiring. The meters collect data every 15 minutes and that data is stored in local and remote servers. The data is stored in non-volatile memory, which does not require power to maintain the reading, only to view it.

The advantages of the Intech submetering system are many, including fair energy cost allocation based on actual resident consumption. The Intech meters will display the kilowatt hour (“kWh”) consumption for each tenant and the system’s data can be used for usage analyses by tenants or the Owner. The data can also be remotely read, so entry to the premises is not required for meter reading. Finally, the cost of submetering Lafayette Boynton is less than the cost of converting the buildings to direct metering.

As further discussed below, rate calculation to be used for billing Lafayette Boynton’s tenants for electricity is the Consolidated Edison bulk electric rate – i.e., Service Classification No. 8 (“SC-8”).

2. Description of the submetering system to be installed, including a validation of its reliability and accuracy

Intech Power Meter (model PM-2104-3) is a “smart meter” which can measure usage in kWh, VARs, VAs, Amps, and Power Factor. Other features of this meter include data retention capabilities and an easy-to-read LCD 16 x 2 character display. Additionally, the meter monitors and stores an apartment’s electric usage every 15 minutes. The data is stored on the meter indefinitely in addition to being stored remotely. The Intech PM-2104-3 system meets ANSI C12.1. Service to individual meters can be terminated at the meter (see the attached user manual for the meter for more details).

The Owner plans on installing submeters upon receiving a Commission order approving this petition. Installation will take approximately four months.

3. Method to be used to calculate rates to tenants

The rate calculation to be used is the Consolidated Edison bulk electric rate – i.e., Service Classification No. 8 (“SC-8”). Specifically, the building’s total bill under SC-8 will be divided by the total kWh consumed by the building as determined by the master meter to arrive at the rate for the particular billing period. Each apartment’s kWh will then be multiplied by the rate to determine that apartment’s bill. Next, an administrative fee of four dollars (\$4.00) is added. Last, sales tax (currently 4.5 %) is applied to arrive at the total tenant cost.

² In an effort to lower the tenants’ costs of purchasing new wall-mounted air conditioning units, the Owner intends to explore the possible bulk purchase of the units in order to receive a discount on the price thereof.

In no event will the total monthly rates (including a monthly administrative charge) exceed the utility's tariff residential rate for direct metered service to such residents (see 16 NYCRR § 96.2 [b] [3]).

American Metering and Planning Services (“AMPS”), as Lafayette Boynton’s electric billing company, will read the meters monthly and process a bill based on the actual consumption of each tenant. The meter reading data and billing calculations will be documented and maintained for a six-year period for each unit.

4. Complaint procedures and tenant protections

When a tenant has a question about electric bill or believes the electric bill is inaccurate, the following protocol will be followed:

Tenant should submit the complaint to the property manager of the building, including the action or relief requested and/or the reason for a complaint about a submetering charge. The complaint can be made in writing, by telephone, via email or in person. The property manager shall investigate and respond to the complaint in writing within 15 days of the receipt of the complaint. If the tenant is dissatisfied with the property manager’s response, he or she may request a review of the outcome by submitting a protest with a supervisor of the property manager within 15 days from the date of the response from the property manager. The protest can be in any of the forms mentioned above. If the tenant and the supervisor cannot reach an equitable agreement within 15 days of the tenant’s filing of this protest and tenant continues to believe the complaint has not been adequately addressed, then the tenant may file a complaint with the Public Service Commission through the Department of Public Service. Alternatively, tenants may contact the Department of Public Service at any time concerning submetered service in writing at New York State Department of Public Service, 3 Empire State Plaza, Albany, New York 12223, by telephone at 1-800-342-3377, in person at the nearest office at 90 Church Street, New York, New York 10007, or via the Internet at www.dps.ny.gov.

Electric bills from AMPS to tenants will contain, among other things, opening and closing meter reads and dates, usage during a current period, a breakdown of dollar amounts billed, the total charge for the period, and the total amount due (see attached sample AMPS electric bill).

In the event of non-payment of electric charges, the Owners shall afford the tenant all notices and protections available to such tenant pursuant to the Home Energy Fair Practices Act (“HEFPA”) before any action(s) based on such non-payment, including termination of service, is commenced (see attached HEFPA documents for the building). Electric will not be treated as additional rent by the Owner.

5. Procedure for notifying all tenants and Con Edison of the proposal to submeter; Lease riders; Test billing

At or about the time this petition is filed, tenants will be notified of the petition to submeter pursuant to the guidelines set forth by the Commission in prior submetering orders (see attached letter to tenants).³

A lease rider attached to each tenant’s lease will inform the tenant that his or her apartment unit is submetered for electricity. The lease rider will, in plain language, clearly enumerate the grievance procedures for the tenants and will specify the rate calculation, rate caps,

³ See Cases 08-E-0836, 08-E-0837, 08-E-0838, and 08-E-0839 – Petitions to Submeter Electricity, Order Denying In Part And Granting In Part Petitions For Rehearing And Establishing Further Requirements (Sept. 17, 2009).

complaint procedures, and tenant protections and enforcement mechanisms and such provisions will be in compliance with HEFPA (see attached lease with draft lease rider). To avoid misunderstanding, the Owner intends to commence submetering for all tenants simultaneously after receiving the legal authority to do so from the appropriate regulators. The lease riders will be not be incorporated into the leases at the commencement of submetering. Rather, the lease riders will be incorporated at such times as the leases are either renewed or executed in the first instance.

At or about the time this petition is filed, Con Edison will be notified of this petition to submeter via letter (see attached letter to Con Edison).

Prior to billing tenants for submetered electricity, the Owner will provide “shadow bills” to applicable tenants for the timeframe dictated by HCR regulations, operational bulletins, and guidelines.

6. Rent reductions

The Owner will apply rent reductions to tenants in accordance with any Order issued by HCR, as well as HCR Operational Bulletin 2003-1, Update 2, prior to submetering electricity to tenants.

7. Enforcement mechanism is available to tenants

The complaint procedure detailed in section 4 above constitutes the tenants’ enforcement mechanism, which is compliant with HEFPA.

8. Certification that the lease language shall be sufficient to describe all relevant information to the tenant

The Owner, by the undersigned, hereby certifies that the method of rate calculation, the rate cap, complaint procedures, tenant protections, and the enforcement mechanism will be incorporated in plain language in all lease agreements governing the submetered premises (see attached draft lease rider).

Thank you in advance for your attention to this matter. Please do not hesitate to contact me directly at (718) 508-4707 with any questions about this petition.

Sincerely,
Lafayette Boynton Apartment Corporation

Signature

By: Robert Nelson, President

Name (printed)

Lafayette Boynton Apartment Corporation

Company Name

cc:

Joseph Amicone, Esq.
John McManus, Esq.