

Filed Session of July 18, 2013
Approved as Recommended
and so Ordered
by the Commission

JEFFREY C. COHEN
Acting Secretary

Issued and Effective July 31, 2013

STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

July 2, 2013

TO: THE COMMISSION

FROM: OFFICE OF CONSUMER POLICY

SUBJECT: CASE 13-E-0102 – Macedonia Plaza Development LLC Notice of Intent to Submeter electricity at 37-08 Union 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 Notice of Intent to Submeter electricity.

The Application

By letter dated March 8, 2013, Macedonia Plaza Development LLC (Owner) requested approval of its Notice of Intent to Submeter electricity (Notice) at 37-08 Union Street, Flushing, New York (Union Street). The construction of this building will be completed in March 2014 and consists of 143 rent stabilized residential rental units with commercial space on the ground floor.¹ At this time the building is unoccupied.

¹ The Owner stated that pursuant to Real Property Tax Law (RPTL) §421-a, the building received a 20-year tax abatement and the units will be rent stabilized and follow the regulations of the New York City Rent Guidelines Board. The building is also a
(continued...)

The Owner states that the building will be master-metered by Consolidated Edison Company of New York, Inc. (Con Edison) and each residential rental apartment will be submetered. The residential units will not be electrically heated.²

In accordance with the State Administrative Procedure Act (SAPA) §2029(1), the request for permission to submeter was noticed in the State Register on April 10, 2013. The comment period ended on May 27, 2013. No comments were received.

Background

The Notice involves the submetering of electricity at a new master-metered residential rental building and requires approval in accordance with 16 NYCRR §96.3.

The Owner 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 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 the Home Energy Fair Practices Act (HEFPA) (§96.5(c)); a completed “Submetering Identification Form” (§96.5(d)); a lease consistent with the 16 NYCRR §96.5(f); proof of service that the Notice of Intent to Submeter was sent from

participant in the Low-Income Affordable Marketplace Program (LAMP) sponsored by the New York City Housing Development Corporation to finance affordable housing for rental units with annual earnings of 60% or less than the New York City Area Median Income.

² The building will utilize a computer controlled energy management system consisting of a boiler, chiller, cogeneration plant and HVAC systems. A boiler plant, consisting of three natural gas fired boilers, will provide heat to the residential units while the chiller plant will provide cooling. Heating and cooling will be provided through a two-pipe vertical fan coil system. A supplemental electric heating coil will be available to provide heat during the spring and fall when the system is in the cooling mode as an option for residents who may want supplemental heat. The supplemental coil is automatically disabled when the system is in the heating mode.

the prospective submeterer to Con Edison (§96.5(g)); a description of all of the appliances in the units and an attestation that they are Energy Star Labeled (§96.5(h)); a description of the electric energy efficiency measures that have been or will be installed (§96.5(i)); a description of the information and education programs that will be provided to residents on how to reduce electric usage (§96.5(j)); and a description of the income-based housing assistance each tenant will receive (§96.5(k)).

Discussion

The Notice of Intent to Submeter at 37-08 Union Street, Flushing, New York complies with 16 NYCRR §96.5. Pursuant to 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 a new residential rental building. We have no information that disputes this rebuttable presumption.

Therefore, approval to submeter electricity should be granted.³ Pursuant to 16 NYCRR §96.3(c)(3)(i), the Owner must provide notice in lease agreements to prospective residents that the building is submetered. 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 §96.6(i).

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 37-08 Union Street, Flushing, New York.

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

2. Macedonia Plaza Development LLC be directed to notify prospective residents individually through the rental lease agreement that they will be billed for electric submetered service as required by 16 NYCRR §96.3(c)(3)(i).

3. This proceeding is closed.

Respectfully Submitted,

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