

Filed Session of October 14, 2010
S.P.O. 09-E-0428SP
S.P.O. 10-G-0314SP
Approved as Recommended
and so Ordered
By the Commission

JACLYN A. BRILLING
Secretary

STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

September 29, 2010

TO: THE COMMISSION

FROM: OFFICE OF ELECTRIC, GAS & WATER – Gas Rates & Tariffs
Electric Rates

SUBJECT: CASE 09-E-0428 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric Service.

Compliance electric tariff filing by Consolidated Edison Company of New York, Inc. to provide aggregate information concerning a building's most recent 24 months of electricity to a building owner or its authorized agent.

CASE 10-G-0314 – Gas tariff filing by Consolidated Edison Company of New York, Inc. to provide aggregate information concerning a building's most recent 24 months of gas to a building owner or its authorized agent.

SUMMARY OF

RECOMMENDATION: Staff recommends that the Company's tariff amendments filed on June 29, 2010 and August 26, 2010 be allowed to become effective and the Commission waive newspaper publication of the changes proposed by the amendments filed on August 26, 2010.

SUMMARY

On June 29, 2010, Consolidated Edison Company of New York, Inc. (Con Edison or the Company) filed amendments to its electric tariff schedule in compliance with the Commission's Order Establishing Three-Year Electric Rate Plan.¹ The electric tariff amendments would allow a building owner or its authorized agent to request that the Company provide aggregate information concerning a building's most recent 24 months of electric usage as of the date of the request. The tariff amendments would also allow, subject to the customer's consent, the provision of "tenant-level" data for individual living units.² The Company also proposed to make similar changes to its gas tariff schedule with a filing on June 29, 2010. Additional revised electric and gas tariff leaves were filed on August 26, 2010 to clarify language contained in the June 29, 2010 filings.

Staff has reviewed the filings and recommends that the tariff amendments be allowed to become effective.

PROPOSED TARIFF REVISIONS

By its tariff filings, Con Edison proposes to modify its electric and gas tariffs so it may provide aggregate information concerning a building's most recent 24 months of electricity or gas usage (e.g., for all living units plus common areas) to a building owner or its authorized agent who requests the information in writing. The charge for building-level data will be \$102.50 per request per building for information covering the lesser of 24 months of data or the months of data in Con Edison's database of current customers and \$102.50 per hour of Company labor (calculated in half-hour increments and rounded up to the nearest half-hour) for archived information.

¹ Case 09-E-0428, et al., Con Edison – Electric Rates, Order Establishing Three-Year Electric Rate Plan (issued March 26, 2010) (2010 Electric Rate Order).

² Under the 2010 Electric Rate Order and the proposed tariff amendments, "tenant" is defined as tenants, condominium unit owners and other directly metered occupants of individual buildings. 2010 Electric Rate Order, Joint Proposal, p. 59.

The charge for tenant-level data will be \$102.50 per hour of Company labor (calculated in half-hour increments and rounded up the nearest half-hour). In addition, Con Edison will provide, upon request of a multi-family owner or commercial building owner or manager, the account number, usage and, if applicable, the demand information for each directly-metered tenant account for which the Company has received the customer's written consent to release such information. Any incremental costs associated with this effort will be charged to the requesting party to recover the costs associated with such an effort. If building-level or tenant-level data is requested for both gas and electricity in a building receiving the Company's gas and electricity service, Con Edison proposes to allocate half of the applicable charge to the customer's gas service and half to the customer's electric service.

All requests for building-level or tenant-level data must be made in writing and must state the relationship of the requestor to the building and the reason the information is being requested. Con Edison will comply with requests within 15 business days or within a reasonable period thereafter if the Company receives multiple requests during such time frame.

Con Edison requests that the Commission waive the requirements of Public Service Law (PSL) §66(12)(b) as to newspaper publication of the changes proposed by the amendments filed on August 26, 2010. The Company requests waiver because notice of the tariff amendments proposed in the June 29, 2010 filing was made by means of newspaper publication on July 6, 13, 20, and 27, 2010, however, publication of the further amended tariff leaves filed on August 26, 2010 was not made, because the revisions merely clarified information proposed in the original tariff filings.

NOTICE AND COMMENTS

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), Notices of Proposed Rulemakings were published in the State Register on July 21, 2010. The comment period expired on September 7, 2010 and comments were received from

the City of New York (City) and by TRC Companies, Inc. (TRC). Con Edison submitted comments in reply to the TRC comments on September 24, 2010.³

The comments filed by the City fully support approval of the tariff revisions proposed by Con Edison and it asserts that these revisions will continue to encourage energy efficiency initiatives. TRC, a technical consultant and implementation contractor to the New York State Energy and Research Development Authority (“NYSERDA”) including the Multifamily Performance Program (“MPP”), filed comments indicating its concern over the charges being proposed in the tariff revisions. TRC states that it’s unfair to levy a charge on Energy Efficiency Portfolio (EEPS) program administrators who request building usage data because the Company, who can be an EEPS program administrator, has access to this data. TRC requests that the tariff be modified to waive the proposed charges for NYSERDA, TRC, MPP Implementation Contractors, and the MPP Partners. In the Company’s comments, it explains that the proposed charges are to be levied upon the requesting party, be it the building owner or its authorized agent. In addition, the Company states that the proposed charges would be imposed on Company EEPS program participants or authorized agents and that the same should apply to NYSERDA EEPS program participants or authorized agents.

DISCUSSION

The Joint Proposal adopted by the Commission in its 2010 Electric Rate Order contained provisions requiring that Con Edison provide, upon request, aggregate building energy usage data to the owner or manager of a multi-family or commercial building. The tariff amendments effectuate those provisions and expand them to include building and customer gas usage, and propose applicable charges to provide such data as allowed by the Joint Proposal. Staff reviewed the filing and backup work papers justifying the charges contained in the proposed tariff amendments. Based on that

³ These late comments will be accepted as they further the record in this proceeding.

review, Staff proposed to Con Edison a modification to clarify what specific data would be provided to customers. The Company, in turn, filed additional tariff leaves to reflect those proposed changes.

TRC's request for the Company to waive the fees for NYSERDA, TRC, MPP Implementation Contractors, and the MPP Partners should be rejected by the Commission. TRC's concern that an unlevel playing field could result if the tariff is approved is unfounded. There are costs incurred by the Company associated with compiling the building usage data. The purpose of this tariff revision is to pass these costs on to the requesting party. In a situation where the Company would use the information as an administrator of an EEPS program, the Company would incur the costs to perform the task of compiling the building data and these costs would be accounted for in the total cost of the applicable EEPS program in the same manner that they would be for programs administered by other entities. Based on Staff's review, the tariff amendments listed in the Appendix should be allowed to become effective.

RECOMMENDATION

It is recommended that the tariff amendments listed in the Appendix be allowed to become effective and special permission be granted waiving the requirements of PSL §66(12)(b) as to newspaper publication of the changes proposed by the amendments filed on August 26, 2010.

Respectfully submitted,

RICHARD F. GEORGE
Utility Engineer 1

WILLIAM D. WADE
Utility Engineer 3

VICKI M. MASSARONI
Utility Analyst 3

Reviewed by:

STEVEN J. KRAMER
Assistant Counsel
Office of General Counsel

BRUCE E. ALCH
Chief, Electric Rates & Tariffs
Office of Electric, Gas and Water

THOMAS COONAN
Chief, Gas Rates & Tariffs
Office of Electric, Gas and Water

Approved by:

RAJ ADDEPALLI
Deputy Director, Electric
Office of Electric, Gas and Water

MICHAEL J. SCOTT
Deputy Director, Gas, Water, Safety and Security
Office of Electric, Gas and Water

SUBJECT: Filings by CONSOLIDATED EDISON COMPANY OF NY, INC.

Amendments to Schedule PSC No. 9 – Electricity

Fourth Revised Leaf No. 84-A
Tenth Revised Leaf No. 84

Issued: July 1, 2010 Effective: September 27, 2010

Eleventh Revised Leaf No. 84

Issued: August 27, 2010 Effective: September 27, 2010

Amendments to Schedule PSC No. 9 – Gas

Third Revised Leaf No. 118-1
Sixth Revised Leaf No. 118

Received: June 29, 2010 Effective: September 27, 2010

Seventh Revised Leaf No. 118

Received: August 26, 2010 Effective: September 27, 2010

SAPA: 09-E-0428SP1 – STATE REGISTER - July 21, 2010
10-G-0314SP1 – STATE REGISTER – July 21, 2010

SPECIAL PERMISSION APPLICATION – S.P.O. 09-E-0428SP
S.P.O.10-G-0314SP

NEWSPAPER PUBLICATION: June 29 Filings: July 6, 13, 20, and 27, 2010
August 26 and 27 Filings: Waived