

**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

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**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** **Case 16-E-0060**

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**Proceeding on Motion of the Commission as to the Rates,  
Charges, Rules and Regulations of Consolidated Edison  
Company of New York, Inc. for Gas Service** **Case 16-G-0061**

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**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** **Case 15-E-0050**

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**Tariff Filing by Consolidated Edison Company of New York,  
Inc. to Revise General Rule 20 Standby Service Contained in its  
Electric Tariff Schedules, P.S.C. Nos. 10 and 12** **Case 16-E-0196**

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**CITY OF NEW YORK  
STATEMENT IN SUPPORT OF JOINT PROPOSAL**

**Dated: October 13, 2016**

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## PRELIMINARY STATEMENT

The City of New York (“City”), the largest customer on Consolidated Edison Company of New York, Inc.’s (“Con Edison”) electric and gas systems, hereby submits this Statement in Support of the Joint Proposal (“JP”) filed with the New York State Public Service Commission (“Commission”) on September 20, 2016. The JP recommends a comprehensive resolution of the issues in these proceedings and should be adopted by the Commission.<sup>1</sup>

In January 2016, Con Edison filed a request with the Commission for a \$482 million rate increase for electric and \$154 million rate increase for gas to take effect on January 1, 2017. For the City, those requests would have translated to a 2017 base rate increase of approximately 10%.

In June 2016, the active parties to this proceeding agreed to explore the possibility of settling their differences in lieu of litigating the rate cases. Although these cases presented a few new issues, such as the manner in which the implementation of the recommendations in the Commission’s Reforming the Energy Vision (“REV”) Track Two Order<sup>2</sup> as well as the Commission’s generic affordability proceeding,<sup>3</sup> would be reflected in the Company’s rates and practices, many of the issues were repetitious of those that had been litigated or settled in past

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<sup>1</sup> The low income provisions in the JP reflect, among other things, benefit levels that depend on Commission action in Case 14-M-0565, Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers. As explained in Point B.2, *infra*, the City objects to portions of the JP regarding low income benefits to eligible customers. The City also objects to the portion of the JP allocating costs associated with outcome-based programs to New York Power Authority (“NYPA”) customers, as explained in Point B.4, *infra*.

<sup>2</sup> Case 14-M-0101, Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision, Order Adopting A Ratemaking and Utility Revenue Model Policy Framework (issued May 19, 2016) (“REV Track Two Order”).

<sup>3</sup> Case 14-M-0565, Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers, Order Adopting Low Income Program Modifications and Directing Utility Filings (issued May 20, 2016) (“Low Income Order”).

cases. Approximately two and a half months later, the majority of the active parties successfully resolved their disagreements and disputes.

The JP represents a compromise package of concessions and agreements that address and reasonably resolve all of the principal issues of concern among the parties, as well as a number of ancillary issues. Perhaps most significant, the base rate increase is less than half of the amount originally sought by Con Edison, and the impact on the City is similarly substantially reduced. Other issues, including an expanded low income program, enhanced focus on the use of distributed generation (“DG”), improvements to standby rates, modifications to rate design, and improved access to customer data have also been addressed.

For the reasons set forth herein, the City respectfully recommends that the Commission find that the JP is in the public interest and adopt it, subject to the resolutions of the concerns set forth below, as Con Edison’s electric and gas rate plans for the next three years.

### **PROCEDURAL HISTORY**

Con Edison filed its request for new rates on January 29, 2016. The City, as well as other parties, conducted extensive discovery. The City posed over 230 information requests, many with multiple subparts, and collectively, the parties posed over 1,600 discovery requests to each other. (JP at 3.) On May 27, 2016, the City filed direct testimony challenging a number of aspects of the Company’s revenue requirement, revenue allocation, rate design and capital expenditure proposals and affirmatively advanced positions advocating for increased benefits to low income customers, improved energy efficiency programs and access to aggregated building data to further Local Law 84 (“LL84”), improvements to the Company’s oil-to-gas (“OTG”) conversions efforts and continuation of the conversion incentive program, and modifications to certain components of the Company’s electric Service Classification (“S.C.”) 2 in light of important new initiatives being

undertaken by the City of New York Department of Information Technology and Telecommunications (“DoITT”) with respect to broadband and free Wi-Fi access. On the same day, the following parties also filed direct testimony responding to the Company’s January 2016 filing discussing numerous additional issues: New York State Department of Public Service Staff (“Staff”); New York Energy Consumers Council; Consumer Power Advocates (“CPA”); Pace Energy and Climate Center (“Pace”); NYPA; County of Westchester (“Westchester”); Community Housing Improvement Program; Environmental Defense Fund (“EDF”); Metropolitan Transportation Authority (“MTA”); Public Utility Law Project, Inc. (“PULP”); Solar City; Time Warner Cable Inc., Local 1-2 of the Utility Workers Union of America; and the Utility Intervention Unit, Division of Consumer Protection, New York State Department of State (“UIU”). On June 17, 2016 Con Edison, Staff, the City, CPA, EDF, MTA, Pace, PULP and UIU filed rebuttal testimony. An evidentiary hearing is scheduled to commence on November 2, 2016.

On June 10, 2016 Con Edison notified all parties and the Secretary to the Commission of the commencement of settlement negotiations on June 23, 2016. Settlement negotiations began on June 23, 2016, and continued on June 30; July 7-8, 11, 13-14, 18-21, 25-26, and 28; and August 1-4, 9-11, 15-19, 22, 25, and 31; and September 8-9, 13-16, and 19, 2016. Virtually all of the active parties to this proceeding participated in some or all of the settlement negotiations. On September 20, 2016, the terms and conditions and language of the JP were agreed upon, and the document was filed with the Commission.

All settlement negotiations were conducted in accordance with the Commission’s Settlement Rules, 16 NYCRR §3.9, and all parties received appropriate notice of all negotiating sessions. All interested parties were given an opportunity to participate in the negotiations. This Statement in Support sets forth the basis and rationale for the City’s agreement with the JP and

recommendation to the Commission that it adopt the JP's terms and conditions, subject to the resolution of the concerns discussed herein. The City will be available at the November 2, 2016 hearing to respond to questions by the presiding Administrative Law Judges on this Statement and the JP.

## **ARGUMENT**

### **THE JP IS IN THE PUBLIC INTEREST AND SHOULD BE APPROVED**

#### **A. The JP Complies With The Commission's Settlement Guidelines**

The Commission has established the following criteria for evaluating a joint proposal: (a) the extent to which a joint proposal is supported by adverse parties; (b) whether the record for decision is adequate; and (c) whether the settlement is consistent with law and public policy, has a rational basis, balances the interests of customers and shareholders, and compares favorably with the probable outcome of litigation.<sup>4</sup> Except as noted in Point B.2 *infra*, the Commission should adopt the JP because it satisfies these criteria.<sup>5</sup>

All parties received reasonable and sufficient notice of the settlement negotiations, as required by 16 NYCRR §3.9(a). Con Edison and/or Staff routinely circulated e-mails to all active parties advising them of upcoming dates for negotiating sessions, and telephonic and/or video conferencing was made available to all parties for every session. To the extent possible, dates were selected that accommodated all parties' schedules. During each negotiating session, no participating party was denied the opportunity to speak.

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<sup>4</sup> Case 90-M-0255, Proceeding on Settlement Procedures and Guidelines, Opinion No. 92-2 (issued March 24, 1992).

<sup>5</sup> The City's Statement focuses on the issues of greatest importance to the City. Any omission herein of any issue resolved in the JP should not be construed as a lack of support for same.

There is broad support for the JP. The parties that executed the JP represent a broad range of interests that often are adverse, and include the City, Con Edison, Staff, customer groups, retail energy suppliers, and environmental advocates. The UIU has indicated that it plans to actively oppose the rate design and revenue allocation portions of the settlement, and possibly other aspects of the settlement as well.<sup>6</sup>

The record provides a rational basis for concluding that the compromises set forth in the JP are justified and appropriate and is adequate to warrant adoption of the JP. In addition to this Statement and those submitted by other proponents, the Company's January 2016 rate filing, and the testimony and exhibits filed by the parties provide and explain the rationale and basis for the JP.<sup>7</sup> Indeed, the issues raised in the testimony either are resolved in the JP, or the JP establishes a process for resolving them. The City expects that the hearing to be conducted on November 2, 2016, will provide additional record support for the JP.

The remaining Commission criteria for judging the reasonableness of a joint proposal are directed towards ascertaining whether the proposed terms are in the public interest and within the

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<sup>6</sup> The City reserves the right to reply to UIU in its Reply Statement.

<sup>7</sup> In support of this Statement in Support, and also to provide contextual background, the City directs the Commission to the original pre-filed direct and rebuttal testimony and exhibits of the City's Low Income Panel, Policy Panel, Electric Infrastructure Panel and Gas Infrastructure Panel. As well as witnesses John H. Lee, Susanne E. DesRoches, Robert R. Stephens and Michael P. Gorman. The City's submissions can be found on the New York State Department of Public Service's online Document and Matter Management system under Filing Nos. 43 and 71 for Case 16-E-0060 and Filing No. 39 for Case 16-G-0061, available at:

<http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=16-E-0060&submit=Search> and

<http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=16-G-0061&submit=Search>.

bounds of a litigated outcome. For the reasons discussed below, the JP satisfies the Commission's standards.

**B. The JP Is Just And Reasonable, Balances the Interests of Customers and Shareholders And Is Superior To A Litigated Result**

The JP is intended to be, and should be read as, a comprehensive proposal that resolves numerous issues that arose during the course of this proceeding. If considered individually, certain provisions may appear biased in favor of one party or a group of parties. However, such a view of the document is inappropriate. The provisions must be considered conjunctively, with each supporting the others. In viewing the JP in this manner, the Commission can and should conclude that its terms and conditions fairly and reasonably address the energy, economic, and other related policies, initiatives, and goals of the State, Commission, and City, the needs of customers, the desires of other parties, and the interests of shareholders. The JP satisfies the requirements of Public Service Law §65(1) in that it ensures that Con Edison will be able to continue to provide safe and adequate service to its customers at just and reasonable rates. Consequently, the Commission should find that it is in the public interest and adopt its terms and conditions, without modification.

**1. Revenue Requirement, Term And Capital Structure**

Con Edison initially sought substantial electric and gas revenue requirement increases of \$482 million and \$154 million, respectively. Thereafter, Staff recommended significant reductions to the amounts requested by Con Edison, and the City and other parties sought similar or different revenue adjustments as Staff. Con Edison filed a traditional one-year rate case, and it also provided testimony and other evidence to support a multi-year rate plan.

The JP establishes three year rate plans for electric and gas service. (JP at 6.) For electric, the revenue requirement increases for each of the three Rate Years are \$194.554 million, \$155.315

million, and \$155.206 million, respectively, in addition to a \$47.776 million increase in electric delivery service revenues effective January 1, 2017 previously approved by the Commission in the 2015 Con Edison electric rate case due to the expiration of temporary credits. (*Id.* at 6-7.) For gas, the revenue requirement decreases by \$5.373 million in Rate Year One, followed by annual revenue increases of \$92.337 million and \$89.453 million in Rate Years Two and Three, respectively. (*Id.* at 13.) However, the revenue decrease in Rate Year One is offset by a \$40.856 million increase in gas delivery service revenues effective January 1, 2017, as established by the Commission's 2014 Order establishing Con Edison gas rates. (*Id.*)

Although the JP provides rate increases for both electric and gas, the City notes that the increases are 54% and 80% less for electric and gas, respectively, than the Company's original requests. Moreover, the revenue requirement increases set forth in the JP are clearly within the potential litigated results of these proceedings, and it is very common for a settlement to extend for multiple years even though the litigated result would be for a single year.

Similarly, the proposed capital structure is reasonable and within the scope of the parties' testimonial positions. With respect to the return on equity, Con Edison sought to deviate from the approach adopted by the Commission in the last two rate cases, and Staff and other parties sought to adhere to the traditional approach. The return on equity set forth in the JP, which is substantially lower than that sought by the Company, was based on the standard, often-utilized approach.

Importantly, there is no dispute among the parties that the revenue requirements and capital structure will adequately support the utility's short- and long-term operations and credit rating, and would enable shareholders to earn a reasonable return on their investment, while maintaining just and reasonable rates. The recommended revenue requirements strike a fair balance among the

interests of customers and shareholders, are supported by the record in these proceedings, and are consistent with the public comments received by the Commission opposing rate increases.

In addition, the multi-year terms of the rate plans are reasonable and provide material benefits to both customers and Con Edison that are superior to that of a litigated outcome (which would only set rates for a one year period). Customers will benefit from rate predictability for an extended period of time, and avoiding very large increases in Rate Year 1. In turn, Con Edison will benefit from a predictable revenue stream that will facilitate the investment decisions necessary to continue providing safe and reliable service.

Overall, the recommended electric and gas revenue requirements, terms, and capital structure strike a fair balance between the interests of customers and stakeholders, are supported by the record in these proceedings, and are superior to a litigated outcome.

## **2. Low Income Programs**

Pursuant to the JP, Con Edison will begin providing electric Medicaid customers with a low income discount in 2017. This will increase the number of customers served by Con Edison's Electric Low Income Program, and will align the Electric and Gas Low Income programs (the gas program already includes Medicaid as a qualifying program). (*Id.* at 101.) The JP provides that Con Edison also will allow one reconnection fee waiver per low income customer per year, which will remove a financial barrier for low income customers who already face difficulty paying past due bills and would otherwise face termination of service. (*Id.* at 102-103.) The JP also directs Con Edison to contribute up to \$100,000 per Rate Year for the City's and Westchester's expenses to perform semi-annual reconciliations for low income files, with an additional \$50,000 in administration costs in Rate Year One for the inclusion of electric Medicaid customers. (*Id.* at 100-101.) Such reimbursement of administrative costs will allow the City and Westchester to continue

to perform the file match necessary to maintain accurate and thorough identification and enrollment of eligible customers in the Company's low income programs. Collectively, these provisions will allow Con Edison to better support low income customers within its service territory, are within the litigated positions advanced by the City and other parties, and are in the public interest.

The City does not support the low income discount levels provided in the JP, as such levels are understated and do not provide customers with an adequate benefit level. In furtherance of the Commission's Low Income Order, the JP directs Con Edison to implement a four-tiered discount program beginning January 1, 2018, whereby low income customers receive discounts based on whether and what Home Energy Assistance Program benefits those customers also receive.<sup>8</sup> The City also objects to the elimination of low income benefits to direct voucher and utility guarantee customers, which provision is included in the JP in furtherance of the Low Income Order. (JP at 103.)

The Low Income Order is the subject of multiple petitions for rehearing and/or clarification pending before the Commission, including one filed on behalf of the City that could impact the benefit levels received by Con Edison customers.<sup>9</sup> While the City understands that its concerns and fundamental disagreement with the low income customer benefit levels included in the JP are more appropriately addressed in the Commission's generic affordability proceeding, because of the positions advanced in the City's pending Rehearing Petition it cannot accept certain terms included in the JP. For these reasons, the JP provides that "if the Commission orders any changes to the Low Income Program in this Proposal that such changes be implemented as soon as practical

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<sup>8</sup> Low Income Order at 19-20.

<sup>9</sup> Case 14-M-0565, *supra*, *Petition for Rehearing and Clarification of the City of New York* (filed June 20, 2016) at 8-11 ("Rehearing Petition").

after the order is issued and implemented on a prospective-only basis.” (JP at 103). Thus, if the Commission were to reinstate low income benefits to utility guarantee and direct voucher customers or increase the benefit levels provided to customers, such Commission directives will be implemented by the Company during the Rate Plan.

### **3. Electric and Gas Revenue Allocation and Rate Design**

The JP adopts Con Edison’s electric and gas embedded cost of service ("ECOS") studies. The revenue allocation reflects one-third of the revenue surplus/deficiency indications in each Rate Year based on the Company’s respective electric and gas ECOS studies in a revenue neutral manner in each Rate Year. The City supports the use of Con Edison’s electric and gas ECOS studies in these proceedings as just and reasonable and in customers’ interests, as such studies reasonably allocate costs to customers based on cost of service principles.

### **4. Earnings Adjustment Mechanisms (“EAMs”)**

The Commission’s REV Track Two Order provided for the implementation of EAMs, which are incentives oriented toward near-term measures to create customer savings and to develop market-enabling tools.<sup>10</sup> The EAMs that were ordered by the Commission in the Track Two Order for immediate adoption by utilities include those discussed herein. The JP adopts EAMs for the following programs: (1) System Peak Reduction and Energy Efficiency Programs; (2) DG Interconnection; and (3) Advanced Metering Infrastructure (“AMI”) Customer Awareness. The City supports the EAM proposals in the JP with the exception of the requirement that NYPA and its customers pay its full class allocation (approximately 11 percent) of the outcome-based EAMs.

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<sup>10</sup> REV Track Two Order at 12.

Generally, the City has held the position that EAMs, and any Company shareholder incentives be tied to the achievement of incremental goals rather than business-as-usual performance by the Company. The City submits that the EAMs in the JP achieve that goal, and represent a fair and reasonable compromise of party positions within the boundaries of a litigated result, balance the interests of customers and shareholders, are in the public interest and should be adopted by the Commission.

a. System Peak Reduction and Energy Efficiency Programs

The JP requires Con Edison to continue or expand existing, and implement new Energy Efficiency and System Peak Reduction programs (collectively, “New Programs”). (JP at 74.) The JP authorizes program-achievement based EAMs for incremental GWh savings and system peak MW reductions from the New Programs, and outcome-based EAMs based on energy intensity, customer load factor, and distributed energy resources (“DER”) utilization metrics to be defined through a collaborative process to commence in September 2016. (*Id.* at 79.) The program-achievement based incentives provide significant earnings incentives to Con Edison shareholders if maximum targets are met – approximately \$42 million at 100% of target GWh savings and incremental system peak MW reductions goals, and over \$102 million at maximum levels over three years. (*Id.*) While the City is cognizant that these incentive levels are significant, if such energy efficiency and system peak reduction goals are indeed met, this will provide significant benefits to customers both in the form of savings and emissions reductions. The City submits that the overall structure of the New Programs and commensurate targets and EAMs are just and reasonable when viewed comprehensively. Therefore, the City supports this proposal in the JP as just and reasonable and believes that the JP properly balances the interests of stakeholders and Con Edison shareholders, while also being in the public interest.

The JP further provides that costs to administrate the New Programs, and the associated EAMs, will be allocated between Con Edison customers and NYPA on the following basis: (1) NYPA will be allocated 5% of the System Peak Reduction Program costs as well as the program-achievement based EAMs associated with that program's targets; (2) NYPA will not fund any portion of the program-achievement based EAMs associated with the Energy Efficiency program targets; and (3) NYPA will contribute its full class allocation (*i.e.*, 11%) for outcome-based EAMs. (*Id.* at 82.) The City takes issues with the latter JP proposal that requires NYPA to contribute its full class allocation to fund outcome-based EAMs.

While the metrics and targets associated with the outcome-based EAMs will be developed in a collaborative setting, it is not appropriate for NYPA and its customers (which includes the City) to bear these costs. NYPA and its customers regularly undertake outcome-based efforts to improve energy efficiency and system peak reduction. Such efforts benefit all Con Edison customers, yet NYPA and its customers do not receive any incentive payments for the work they have done to improve such measures. It is not equitable that the City, and other NYPA customers, must now pay Con Edison shareholders for outcome-based results that are a direct consequence of the City's and other NYPA customers' initiatives, and for which Con Edison has not contributed. For these reasons, the City opposes the cost allocation portion of this proposal in the JP.

b. DG Interconnection

Con Edison will have the ability to earn up to approximately \$7.95 million and \$8.25 million in incentives in Rate Years Two and Three, respectively, for achieving certain targets related to the timeliness of, and customer satisfaction with Con Edison's DG interconnection process. (*Id.* at 83-84.) The City supports this proposal in the JP as being just and reasonable, balancing the interests of customers and shareholders, and superior to a litigated result. Improving

the Company's interconnection process will bring significant benefits to customers by improving the interconnection process, removing barriers to DER development. Increased penetration of DER may increase system reliability, as well as introduce newer, more efficient and cleaner generation resources to Con Edison's system.

c. AMI

Con Edison also will have the opportunity to earn an incentive based on improved customer awareness of AMI. (*Id.* at 96). If the results of a post-deployment survey in a region meet or exceed the established targets for that region, Con Edison will receive an EAM of \$250,000 per region, up to \$500,000 over the term of the JP. (*Id.* at 97.) The City supports this EAM and believes that adequate baselines are considered by the JP so that customer awareness is measured properly and will properly influence the timing and deployment of customer surveys. The City supports Con Edison's AMI deployment initiative generally, as it will enhance the quality and availability of more granular electric usage data for the City, customers, and third-parties, as well as present opportunities for customers to improve efficiency.

**5. Standby Service**

The City has long advocated reforming Con Edison's standby rates as a means of fostering Distributed Energy Resource ("DER") development. Indeed, going forward, success of the Commission's REV proceeding will in part, if not largely, depend on reasonably-set standby rates. That is, DER cannot be justified economically if the rates charged for their use exceed standard rates.

As part of these proceedings, the City submitted testimony advocating that significant changes to standby rates are needed in order to promote DER growth, and recommended that: (i) Con Edison's Contract Demand Delivery Charge be reduced; and (ii) the Commission institute a

proceeding to examine the accuracy of Con Edison's standby charges. (NYC Stephens Direct Testimony at 38-42.)

While the JP does not adopt all of the City's recommendations, it provides for several much-needed improvements to Con Edison's standby rates that should reduce some barriers to DER growth and provide relief to customers. First, the JP establishes a Standby Rate Pilot that will allow participating customers to remain on non-standby delivery rates for up to ten years, or be billed at Pilot rates to be developed through a collaborative process. (JP, Appendix 20.) The Standby Rate Pilot may reduce the burden of existing standby rates for prospective DER developers, and will help facilitate the expansion of DER in Con Edison's service territory.

Second, the JP establishes a Reliability Credit whereby Con Edison will provide DER facilities with credits based on their performance during the summer peak period. The Reliability Credit replaces, and is an improvement over, the Standby Performance Credit adopted as part of the 2015 settlement to extend Con Edison's electric rate plan. The Reliability Credit is structured such that it provides a more comprehensive solution for properly valuing contributions by DER providers to system reliability as compared to the Performance Credit.<sup>11</sup>

Finally, the JP adopts the City's proposal for a Multi-Party Offset Tariff, whereby a combined heat and power ("CHP") generator connected to the high-tension side of Con Edison's distribution system use its output to supply separately-metered standby service accounts of customers in multiple buildings, provided all of the customers share a common thermal loop. (JP

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<sup>11</sup> Case 15-E-0050 *et al.*, 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, Order Adopting Terms of Joint Proposal to Extend Electric Rate plan (issued June 19, 2015), p. 41.

at 63-64.)<sup>12</sup> The Multi-Party Offset Tariff will reduce barriers for customer CHP facilities, will encourage the development of DER, and enhance reliability and resilience of the electric distribution system, is consistent with both City and State policy objectives to reduce greenhouse gas emissions, and is in the public interest.

## **6. Data Access**

In its pre-filed testimony, the City explained the need for more comprehensive sharing of energy usage data between Con Edison, the City, and building owners, for the purposes of complying with LL84, which requires owners of large buildings to annually measure their energy and water consumption and report it to the City.<sup>13</sup> (*See generally* NYC Policy Panel Direct Testimony.) The City emphasized that enhanced sharing of aggregated energy consumption data, and automating Con Edison's processes for compiling and providing such data to building owners, would further the City and State's climate initiatives and enable building owners to more easily comply with LL84.

The JP provides that, by the end of 2017, Con Edison will add functionality to its current process for providing aggregated whole building data to building owners such that Con Edison will be able to directly upload aggregated whole-building energy usage data to the Environmental Protection Agency's ("EPA") Portfolio Manager using a web service interface. The JP also provides for the elimination of the fees that Con Edison charges for providing such data, effective

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<sup>12</sup> The City previously submitted comments to the Commission advocating for amendments to Con Edison's existing offset tariffs, but the docket in which the comments were filed has been subsumed by this current rate proceeding. *See* Case 16-E-0196, Tariff Filing by Consolidated Edison Company of New York, Inc. to Revise General Rule 20 Standby Service Contained in its Electric Tariff Schedules, P.S.C. Nos. 10 and 12, Comments of the City of New York (filed June 13, 2016).

<sup>13</sup> *See* "LL84: Benchmarking," New York City Mayor's Office of Sustainability, <http://www.nyc.gov/html/gbee/html/plan/ll84.shtml> (last visited Sept. 15, 2016).

January 1, 2017. The fee, which currently is included in Con Edison's tariff, costs building owners \$102.50 per request per borough, tax block and tax lot number for data. This fee is a significant barrier to LL84 compliance for building owners.

Allowing for direct uploading of aggregated building data to EPA's Portfolio Manager will greatly improve the quantity and quality of consumption data that is reported and tracked as part of LL84. Such data provides essential information that allows the City to pursue increasingly aggressive programs and policies to drive down energy and water consumption, as well as utility cost expenditures. Improving the quantity and quality of this data, through an automated process that improves the flow of information will promote the public interests being served by LL84. Moreover, Con Edison's aggregated data fees have repeatedly been cited by building owners as a barrier to providing the comprehensive building data required by LL84, and has resulted in poor-quality or incomplete LL84 data in the past. The elimination of these fees will improve compliance with LL84 and, concomitantly, improve the accuracy of data gathered by the City.

The JP also provides for the implementation of Green Button Connect ("GBC"), which will allow customers to access their own usage data by the end of 2017. The City supports this provision, especially the Company's commitment to consider adding other data sets to the GBC functionality (in addition to customer usage) in later years of the Rate Plan.

Collectively, these provisions improve the quality of shared data between Con Edison, the City, and building owners, are within the litigated positions advanced by the parties, and are in the public interest.

## **7. Interconnection Procedures Collaborative**

The JP provides that, beginning in October 2016, the New York State DG Ombudsman will commence discussions among interested parties to develop the parameters for improvements to Con Edison's internal process for managing interconnections. (JP at 107-08.) The discussions will address a number of issues identified by the City, including: (1) development of checklists to streamline work; (2) improvement to Con Edison's written materials for DG developers, including explanations of how Con Edison applies the applicable standards; (3) scheduling of business meetings to consider project-specific issues; and (4) development of a streamlined internal review process for failed DG inspections where the customer requests a review. Improvements to each of these areas are expected to be implemented by 2017. The City strongly supports the inclusion of this proposal in the JP. The collaborative process and subsequent improvements to Con Edison's interconnection procedures will facilitate the growth of DG and DER throughout Con Edison's electric system, which is consistent with City and State energy policies, is just and reasonable, superior to any litigated outcome, and is in the public interest.

## **8. Climate Change Vulnerability Study**

Hurricane Sandy demonstrated that reliable electric and gas delivery service is essential to the economy and public health, safety, and welfare, and that the City's infrastructure – including its utility infrastructure – must be made more resilient to extreme weather events. To that end, a forward-looking approach is needed to evaluate climate change risks to utility infrastructure, and the City demonstrated through its pre-filed testimony the need for and importance of the Climate Change Vulnerability Study being undertaken by Con Edison to study the present and future

climate risks that will impact Con Edison's systems. (*See Generally*, NYC DesRoches Direct Testimony.)

Consistent with the City's recommendations, the JP authorizes Con Edison to spend up to \$4 million to complete a Climate Change Vulnerability Study by December 31, 2019. (JP at 113.) Con Edison will also seek alternative sources of funding for the study, including working with the City and other utilities with service territories in the New York City/Westchester area, and deduct that funding from the cost of the study. This provision reasonably addresses the City's concerns regarding storm hardening and resiliency of Con Edison's utility systems, is in the public interest, and is superior to a litigated outcome.

**9. Special Provision D of S.C. 2**

The JP modifies Special Provision D of S.C. 2 of Con Edison's electric tariff, and expands eligibility for a discounted customer charge to devices that provide free wi-fi services to the public. (JP at 56.) In addition, the JP reduces the threshold number of devices (*i.e.* the minimum number of devices that must be installed before the discount takes effect) from 100 to 40 devices. (*Id.*) The City is supportive of this proposal in the JP as both of these changes are reasonable and will help facilitate expansion of DoITT's initiative to provide free internet access to customers in underserved areas, and is therefore in the public interest.

**10. Oil-to-Gas Conversions**

The City's pre-filed direct testimony in these proceedings described its extensive efforts to phase out the use of No. 6 and No. 4 heavy fuel oils by 2015 and 2030, respectively, pursuant to rules promulgated by the City in 2011 to drastically reduce the harmful emissions resulting from the use of such heavy fuel oils. (*See NYC Lee Direct Testimony.*) Con Edison facilitates OTG conversions through a customer incentive program, of up to \$1.465 million per rate year, to encourage residential and commercial customers to convert from heavy heating oil use to No. 2

heating oil, biodiesel, or natural gas use. Con Edison also currently implements an OTG Conversion and Area Growth (“Area Growth”) Program through which Con Edison systematically upgrades portions of its gas distribution network, and simultaneously allows multiple buildings in those areas to convert to natural gas and have their main extension and service line charges for gas service waived.

The JP provides for the continuation of both Con Edison’s customer incentive program and Area Growth Program. (JP at 22.) With respect to the latter, Con Edison will continue to provide customers with conversion project management milestones and timelines, will continue to provide Area Growth Zone maps to prospective OTG conversion customers, and will carry forward the program reporting guidelines established in Con Edison’s previous gas rate plan. (*Id.* at 23-25.)

The City’s fuel oil regulations were designed with the goal of achieving significant near-term reduction in air pollution, and the concomitant deleterious effects on human health including respiratory and heart disease, while minimizing costs to building owners. Continuation of Con Edison’s customer incentive program and Area Growth Program will encourage OTG conversions and will help accelerate the City’s phase-out of heavy fuel oils in order to realize the health benefits of cleaner emissions much sooner. These programs also will complement the City’s NYC Retrofit Accelerator program which offers advisory services to building owners and operators to help them complete building upgrades, including OTG conversions. Because the JP provisions regarding OTG conversions will yield material environmental and economic benefits, and are reasonable and within the range of potential litigated outcomes, the Commission should approve these recommendations.

## 11. Gas Capital Expenditures

The Company's gas rate filing described plans for significant increases in investment in gas infrastructure and other capital investments in 2017, 2018 and 2019. In its pre-filed testimony, the City raised numerous concerns with Con Edison's capital infrastructure investments plans, particularly with respect to the rate of planned leak-prone pipe ("LPP") replacement and the prioritization of LPP replacement in floodplain areas. (*See* NYC Gas Infrastructure Panel Direct Testimony.) The City also raised issue with Con Edison's risk model that primarily takes leak rates and leak history into account, but which does not adequately increase the priorities for the replacement of mains located in the floodplain. (*Id.* at 19-20.)

Consistent with the City's testimony, the JP requires that Con Edison increase its efforts on replacing LPP. The JP requires Con Edison to remove from service 255 miles of cast iron and unprotected steel gas mains with diameters equal to or less than 12 inches between 2017 and 2019. (JP, Appendix 16, pp. 5-6.) Con Edison must also remove a minimum of 80, 85, and 90 miles of main in 2017, 2018, and 2019, respectively, and remove from service segments identified under its Main Replacement Program ("MRP") model of at least 70 miles in 2017, 75 miles in 2018, and 80 miles in 2019. (*Id.* at 6.) During the term of the rate plan, Con Edison will work to incorporate pipe diameters above 12-inches into the MRP model. (*Id.*) For each Rate Year, if Con Edison does not meet its annual LPP replacement targets, Con Edison will accrue a negative revenue adjustment equal to 8 basis points for such Rate Year(s), which will be applied to the benefit of firm customers, as directed by the Commission. (*Id.*) If Con Edison fails to remove a total of 255 miles of LPP over the term of the rate plan (*i.e.* 2017-2019), it will accrue a further negative revenue adjustment equivalent to 24 basis points. (*Id.*)

These measures are just and reasonable and in the public interest as they further the timely removal of unreliable infrastructure from Con Edison's gas system. Moreover, the JP ensures that

Con Edison will invest in the future of its gas distribution system, wherein a stronger, more resilient system will benefit Con Edison's customers by increasing reliability, reducing outages, and yielding material environmental benefits in the form of reduced methane emissions.

### **CONCLUSION**

The City is very supportive of the majority of the initiatives to be undertaken by the Company over the proposed three-year Rate Plan including necessary improvements to enhance safety and reliability of the gas and electric systems. However, it is important to note that this is a comprehensive settlement of party positions, and the bill impacts that consumers face in light of the JP, while less than the Company's initial requested relief, are still significant. The City submits that the Company should make every effort as it moves forward to continue to find additional operational efficiencies, wherever and whenever it can, so as to mitigate bill impacts to the residents and business owners in New York City. Accordingly, the City submits that while this JP is a good step forward in the Company's efforts to improve efficiency measures, access to customer and aggregated building data, standby rates, and many other REV-related principles, there is still much work to be done.

For all the reasons set forth herein, the City submits that the terms and conditions of the JP are fair, reasonable, and consistent with the Commission's Settlement Guidelines. The record in these proceedings provides a rational basis for the Commission to find that the JP is in the public interest, produces just and reasonable rates, and provides for safe and adequate service. Therefore, except as noted in points Point B.2 and Point B.4 above, the City respectfully recommends that the Commission adopt the JP.

Respectfully submitted,

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