STATE OF NEW YORK

PUBLIC SERVICE COMMISSION

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 13-E-0030**
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 13-G-0031**
Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc., for Steam Service	**CASE 13-S-0032**

SUPPLEMENTAL TESTIMONY OF NANCY BROCKWAY REGARDING REVIEW OF JOINT PROPOSAL FOR PUBLIC UTILITY LAW PROJECT OF NEW YORK, INC.

Q. ARE YOU THE SAME NANCY BROCKWAY WHO PREVIOUSLY FILED DIRECT AND REBUTTAL TESTIMONY IN THESE CASES?

A. Yes.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY REGARDING THE JOINT PROPOSAL FILED BY A NUMBER OF SIGNATORIES?

A. I have been asked to examine the Joint Proposal filed December 31, 2013 from the perspective of low-income customers; to provide my opinion on whether the Proposal

results in just and reasonable rates; and to make recommendations for changes, if any, needed to align it with appropriate Commission social and economic policies, including those favoring affordability of service to low-income customers and continuity of service. In particular, I will address the following topics:

a) Restoration of Medicaid eligibility as a categorical identifier of eligibility for electric low-income rates.

b) The need for improved, broad-based rate reductions for low-income customers, designed with the extent of need in mind, rather than a preconceived limit, subject to adjustment if the resulting rate impact on non-participants is deemed excessive and cannot be mitigated or phased in gradually. This would include measures to ease the transition to more effective low-income rates, especially for electric customers.

c) The need, in a rate plan that creates strong pressures for cost-cutting, for performance standards for HEFPA compliance, collection activities and disconnection, and customer assistance aimed at decreasing the numbers of customers who go without service on account of a payment issue.

c) rejection of the proposed multi-year rate "freeze" and direction instead to institute immediate rate reduction, in at least the amounts calculated by my colleague, William D. Yates.

Q. PLEASE ADDRESS THE FIRST ISSUE ON WHICH YOU ARE TESTIFYING, MEDICAID AS AN ELIGIBILITY– CONFERRING PROGRAM FOR ELECTRIC LOW-INCOME RATES.

A. The Proposal does not restore Medicaid as an "eligibility program" for electric low-income rate purposes. This should be corrected.

Q. PLEASE EXPLAIN WHAT YOU MEAN BY THE TERM "ELIGIBILITY-CONFERRING PROGRAM."

A. The Commission has fostered the efficient administration of utility lifeline and low-income rates and assistance programs, by approving utility plans which take advantage of the fact that social service programs available in New York verify customer income eligibility. Persons found to be eligible for these programs have by definition been put through an income-eligibility examination, so the utility need not set up a major operation of income verification, but can still be confident that those admitted to the utility's low-income program are indeed eligible for assistance. These programs are informally referred to as eligibility-conferring programs, for ratemaking purposes. The Proposal continues this approach of relying upon customer eligibility for other programs, but omits Medicaid.

Q. WHAT IS MEDICAID?

A. Medicaid is a joint federal/state program that provides medical assistance to persons who can't afford health care because their incomes are too low to enable them to pay for health services.

Q. WHAT IS THE INCOME LIMITATION FOR ELIGIBILITY FOR MEDICAID IN NEW YORK?

A. People qualify for Medicaid automatically if they receive SSI. Others qualify if they have high medical bills or if they meet financial requirements. For 2014, to qualify

financially for Medicaid, ordinarily a household may have no more income than 138% of the Federal Poverty Guidelines. This translates to $26,951 per year for a three-person household. Certain populations have an even higher income limit --- for example, 224% of the FPG for pregnant women and babies under age 1, and 154% of the FPG for children age 1 through 5. In addition, New York expanded Medicaid eligibility as permitted by the Affordable Care Act, thus enabling some working families that previously did not qualify to obtain Medicaid.

Q. WHAT ARE THE FEDERAL POVERTY GUIDELINES?

A. The federal Department of Health and Human Services annually publishes the so-called Federal Poverty Guidelines (FPG), to give states and program administrators a benchmark for determining poverty, and the depth of poverty. The guidelines specify a different income limit depending on the numbers of persons in the households. Because the FPG are understood to be out of date, do not take regional cost of living differences into account, and understate poverty, many means-tested programs set an income limit as some multiple of the FPG number. For example the Home Energy Assistance Program in New York uses 150% of the FPG as an income eligibility limit.

Q. IS THERE ANY QUESTION THAT INDIVIDUALS RECEIVING MEDICAID IN NEW YORK STATE ARE NEEDY?

A. No. As discussed, Medicaid is primarily a means-tested program. While eligibility has expanded under the Affordable Care Act, it remains a program available only to those with high medical expenses or low incomes, who are unable to afford health care otherwise.

Q. DO OTHER PROGRAMS USE MEDICAID AS A QUALIFYING PROGRAM TO DEMONSTRATE LOW INCOME?

A. Yes. The Commission has authorized Medicaid as a qualifying program for Con Edison's current gas low-income rates, and the Joint Proposal would continue that. Medicaid is an eligibility conferring program for the low-income rates of other New York utilities, notably KeySpan. The Commission summarized the KeySpan reduced rate for low income customers in its *Order Approving Disbursement Of Funds From Low Income Program Balancing Accounts* in Cases 06-G-1185 and 06-G-1186, Issued October 15, 2010:

> National Grid-LI offers a low income rate to eligible customers through its Low Income Discount Program. Residential non-heating customers receive a $2.50 discount from the monthly minimum charge, and residential heating customers are offered a $9.50 discount from the monthly minimum charge. For heating customers, National Grid-LI also offers a seasonal winter discount (November through April) of approximately 44% off of the second rate block (4-50 Therms). The Low Income Discount Program became available at the beginning of Rate Year 1 (January 1, 2008) for qualifying residential heating and non-heating gas customers. Eligible customers are those who participate in the following programs: Home Energy Assistance Program (HEAP), Temporary Assistance for Needy Families, Safety Net Assistance, Supplemental Security Income (SSI), Food Stamps, ***Medicaid***, Child Health Plus, and Veteran's Disability Pension/Veteran's Surviving Spouse Pension, as well as customers admitted to National Grid-LI's "On-Track" arrears forgiveness program.

Emphasis added. The New York Public Service Commission has approved receipt of Medicaid as an eligibility criterion for all telephone lifeline discount programs in New York, and advertises that in PSC a brochure available at the askPSC.com website, at

http://bit.ly/JJWo1a, The Federal Communications Commission, also approved the inclusion of Medicaid nationally as a qualifying program for telephone Lifeline and Linkup assistance. See the program description at http://www.fcc.gov/lifeline. In addition to an income eligibility standard, the California Public Utility Commission includes Medicaid among the assistance programs that automatically confer eligibility for California's Alternate Rates for Energy (CARE) rates, which provide 20% or greater electric and gas bill reductions for low-income Californians. The program is described at http://www.cpuc.ca.gov/PUC/energy/Low+Income/care.htm. I conclude that the Joint Proposal's exclusion of Medicaid recipients from the electric low-income rate ignores that medically needy people need bill assistance, ignores Commission precedent approving Medicaid as a qualifying program, is inconsistent with the gas program, and is out of step with other national and state initiatives to make utility service affordable to low-income customers.

Q. AS FAR AS YOU KNOW, IS THERE ANY POLICY REASON WHY MEDICAID WAS INCLUDED AS A QUALIFYING PRORAM FOR CON EDISON'S GAS LOW INCOME RATE, BUT NOT FOR THE CORRESPONDING ELECTRIC LOW INCOME RATE?

A. No. The Joint Proposal indicates no rationale for this differential treatment. Medicaid was an eligibility-conferring assistance category for Con Edison's electric rate when it first began in 2001. Then, Con Edison's low income electric customers received a reduced customer charge of $5.00 per month,

> for customers who are enrolled in the Company's low-income program and are Direct Vendor customers, or are receiving a benefit under Supplemental Security Income,

> Temporary Assistance to Needy Persons, Safety Net Assistance, ***Medicaid***, Food Stamps, Child Health Plus, Veteran's Disability Pension (non-service disability) or Veteran's Surviving Spouse Pension (non-service disability), or have received a Home Energy Assistance Program grant in the preceding 12 months.

Con Edison Service Classification no. 1 tariff, effective May 1, 2001, at http://www.coned.com/documents/elec/historical/sc01.05_01_2001.201-210.pdf (Emphasis added). There is no decision of the Commission advancing a policy rationale for elimination of Medicaid recipients from the low-income electric rates. From the testimony in this case, it appears that dropping Medicaid in the case of the electric low-income rate might have been seen as a simple way to trim participation levels at a time when there was a particularly large expansion of the participants (due to better outreach and laudable enrollment coordination with social services agencies).

Q. WHAT DOES THE RECORD IN THIS CASE SAY ABOUT THE NUMBERS OF ELECTRIC CUSTOMERS WHO WOULD QUALIFY FOR CON EDISON LOW INCOME ELECTRIC RATES SOLELY ON THE BASIS OF MEDICAID PARTICIPATION?

A. There is no solid evidence in this record to suggest that any significant numbers of new customers would qualify for Con Edison's electric low-income program solely if Medicaid were included as a qualifying program. The testimony suggesting a significant impact is vague, and indeed it is internally inconsistent. On the one hand, there was generic testimony claiming that including Medicaid as a qualifying program would unduly expand eligibility for the low-income program. The City of New York stated that "there are millions of Medicaid recipients in New York City," and further suggested that

including Medicaid for the electric low income program "could increase the size of the program substantially." Testimony of Cecile Noel at 13. Company witnesses for their part testified that "our understanding is that the [electric program population] would increase significantly" if the Company were to add Medicaid to the qualifying programs for the electric low income rate. Tr. 1879. The Company acknowledged that it had not developed this conclusion through its own research, and that its suggestion was based on "comments by those that are in a better position to know" the numbers of electric customers receiving Medicaid, *Id.* The Staff stated that if you add Medicaid to the list of qualifiers for the electric low-income program, you would "put the electric program at a huge number." Tr. 1860-1861.

On the other hand, Company witnesses opined at the same time that "99.9% of Medicaid customers qualify for one of the other qualifying programs," Tr. 1829. This statement was made in the context of arguing that eliminating Medicaid as a qualifying program for the gas low-income program would mean that few if any customers would be eliminated from the gas low income program. *Id.*

Both assertions cannot be true. The inevitable conclusion is that no reliable estimate of incremental enrollment in the electric program was offered by those who opposed its inclusion (or supported at the time the removal of Medicaid as a qualifying program from the gas low-income rate). The Joint Proposal does not resolve this policy issue and advances no rationale for providing the low-income gas rate to customers receiving Medicaid but not doing it for electric customers receiving Medicaid.

Q. DID ANY PARTY PUT FORTH A SPECIFIC ESTIMATE OF THE INCREMENTAL PARTICIPATION IF MEDICAID WERE INCLUDED IN THE ELECTRIC LOW-INCOME RATE PROGRAM?

A. Yes. The UIU used an assumption of 20% increased participation when it costed out its proposed inclusion of Medicaid as a qualifying program for the electric low-income rate. See UIU Rate Panel's Exhibit __ (URP-6) and Exhibit __ (URP-7). This figure is reasonable, and the addition of 80,000 customers to an electric low-income rate class with well over 400,000 customers would not unduly expand the program. UIU strongly supported the maintenance of Medicaid as a qualifying program for the gas low-income program, and the inclusion of Medicaid as a qualifying program for the electric low-income program. There is no indication in the Joint Proposal of any reasoned rationale for UIU having receded on this point. The participation of Medicaid customers in the low-income electric rate is a matter of social and economic policy that is not properly traded away at settlement bargaining tables but is an issue that should be decided *de novo* by the Commission.

Q. WHAT DO YOU CONCLUDE ABOUT THE ASSERTIONS THAT ELECTRIC LOW INCOME RATE PARTICIPATION WILL EXPAND SIGNFICANTLY IF MEDICAID IS INCLUDED AS A QUALIFYING PROGRAM?

A. I conclude that the proponents of this view have not put forth any reasonable basis for the concern that adding Medicaid to the list of qualifying programs for the electric low-income rate would unduly increase the numbers of participants. The assertions of some that there will be a huge influx of new low-income electric rate customers if Medicaid is included for electric customers (as it is for gas) is directly contradictory to the

uncontested argument that "99.9%" of Medicaid recipients also participate in and would be eligible through another means-tested program. Both statements cannot be true. The vague and general expressions of concern appear not to have been based on particular evidence of Medicaid participation in New York or any analysis of overlap between Medicaid and other eligibility-conferring programs.

Q. IS MEDICAID EXPANDING AS A RESULT OF THE AFFORDABLE CARE ACT AND NEW YORK STATE POLICY DECISIONS?

A. Yes. New York provides Medicaid coverage to persons whose incomes are otherwise too high and who have high medical bills. But note that half the individuals in this "excess spend-down" program are in nursing homes and are not utility customers. The majority of the rest are children, elders, or disabled persons. Some would call the CHIP (Children's Health Insurance Program") a component of Medicaid, and there are children receiving Medicaid-only under CHIP. Children, of course, are not customers. The Affordable Care Act also increased eligibility for Medicaid to 138% of the Federal Poverty Level so that more of the working poor could have access to affordable health care. However, the available data on additional participation gives counts of individuals, not household counts, and not electricity customer counts. Even as additional individuals join this Medicaid program, the shift to other customers of the revenues forgone through the low-income rate should be reasonable. As it is now, there are over 400,000 Con Edison electric utility customers taking low-income service.

Q. ARE THERE POLICY REASONS TO INCLUDE MEDICAID AS AN ELIGIBILITY CONFERRING PROGRAM?

A. Yes. Customers whose incomes nominally are above eligibility guidelines for other programs such as HEAP or public assistance who have high medical expenses may have great difficulty paying bills for other services including utility service. As noted above, customers in that situation who qualify for Medicaid have demonstrated to social services officials that they are needy (sometimes called "medically needy") because their net income is low after taking into account medical expenses. Similarly, customers who qualify for Medicaid help to buy health insurance are also at risk of not affording other basic items of household needs. In addition, there are strong administrative reasons to have similar eligibility criteria for utility low-income rates, particularly where a customer receives two or more services, e.g., gas and electric, or electric and phone. Similar eligibility criteria permits utility customer assistance staff to urge with confidence that customers who qualify for their low-income rates can also qualify for reductions in the cost of other utility services, increasing the household's ability to meet payment obligations.

Q. TURNING TO LOW-INCOME RATES GENERALLY, PLEASE CHARACTERIZE THE APPROACH TO LOW-INCOME BILL AFFORDABILITY REPRESENTED BY THE JOINT PROPOSAL.

A. The approach to low-income bill affordability contained in the Joint Proposal perpetuates the treatment of bill affordability as an item to be designed against a pre-conceived "budget" which artificially limits the number of participants or level of rate reductions, or both. There is no demonstration that the proposed modifications to low-income rates in the Joint Proposal will address the problem of growing arrears. As shown in the

testimony of my colleague William D. Yates, current trends indicate that Con Edison customers are having great difficulty in paying their bills and the situation is worsening.

Q. HOW SHOULD LOW-INCOME PROGRAMS BE DESIGNED?

A. As I discuss extensively in my direct and rebuttal testimony in these dockets, whether one is discussing gas or electric bill affordability, the first task is to determine the need for bill assistance. Adjustments to rates can be made after that to recognize bill impacts on non-participants, if necessary.

Q. CON EDISON'S LOW-INCOME RATES ARE A COMBINATION OF ADJUSTMENTS TO THE CUSTOMER CHARGE AND TO THE VOLUMETRIC CHARGES. IS THERE A BETTER WAY TO STRUCTURE LOW-INCOME BILL ASSISTANCE?

A. A more straightforward way to structure bill assistance for low-income customers would be to design a low-income rate that consisted of a given percentage reduction off the total bill for corresponding residential customers.

Q. DO OTHER STATES DESIGN THEIR LOW-INCOME BILL AFFORDABILITY RATES AS A PERCENTAGE REDUCTION FROM ORDINARY RESIDENTIAL RATES?

A. Yes. Massachusetts gas utilities offer a rate to their low-income customers that consists of a flat 25% reduction in the total bill otherwise applicable to the customer. Massachusetts electric utilities offer a similar flat percentage reduction. The percentages vary and can be as high as 42%, while one or two are as low as 20%. The bulk of utilities in Massachusetts provide a 25% discount off the total bill otherwise applicable. The California CARE low-income rate program previously discussed provides total bill reductions of at least 20% for gas and electric customers.

Q. WHAT IS THE PERCENTAGE DISCOUNT OFF RESIDENTIAL GAS BILLS FOR CON EDISON'S LOW-INCOME CUSTOMERS?

A. The amount varies depending on usage. The percentage reduction for low income gas customers estimated by Con Edison to be the result of the rate structure proposed in the Joint Proposal for 2014 ranges from around 43.8% (gas customers at a low 8 therms/month) to almost 20% for customers using an average of 113 therms.

Q. WHAT IS THE PERCENTAGE DISCOUNT OFF RESIDENTIAL ELECTRIC BILLS FOR CON EDISON'S ELECTRIC CUSTOMERS?

A. Under today's rates, the percentage discount for an electric customer using 300 kWh per month in 2014 will be 6.9%. UIU_1 - EG036. If the discount is increased to $9.50 as proposed in the Joint Proposal, it will represent about 11% of the bill.

Q. HOW DO THESE CON EDISON DISCOUNTS COMPARE TO THOSE OF THE MASSACHUSETTS UTILITIES?

A. Con Edison's discounts represent a much smaller percentage of the overall bill than the discounts in Massachusetts. The majority of discount percentages in Massachusetts are 25% off the total bill. The gas discount proposed in the Joint Proposal, because it includes a volumetric discount, approaches 20% in the case of heating customers, or nearly the general discount rate in Massachusetts. The JP's proposed electric rate discount is much more useful for low-use customers than higher-use electric customers, however, because it has no volumetric component. In either case, however, the discounts outlined in the JP start just over 5% and go no higher than 11%. This level is less than half the bill assistance provided by the bulk of Massachusetts electric utilities. It is roughly half of the minimum California CARE rate reductions.

Q. DO YOU HAVE ANY OTHER OBSERVATIONS ABOUT THE DISCOUNTS ESTIMATED BY THE COMPANY FOR ITS LOW-INCOME CUSTOMERS?

A. Yes. If you look at the pattern of commodity costs, the Company shows them to have been holding fairly steady in recent years and forecast for 2014 and 2015. This forecast is vulnerable to volatility and price spikes in the natural gas market, which in turn affects the NYISO clearing prices. This is not a mere conjecture. On January 7, 2014, the U.S. Energy Information Administration issued an Energy Market Alert, noting that New York and New England was experiencing a sudden jump in natural gas prices, as a result of high demand from extremely cold weather. The day-ahead spot natural gas price for New York rose to just under $50 per mmbtu. By the 8th, it had eased back to about $27 per mmbtu. With weather these days being unusually unpredictable and volatile, we need to keep in mind that related gas (and electricity) prices will be similarly affected. Experts are warning gas consumers to watch out for rising gas costs in the next year or two. If gas costs were to head upwards for any of a number of reasons, the value of the proposed discounts in preserving bill affordability would be undermined for both gas and electric low-income customers. For this reason, a percentage of bill approach is preferable, to fixed amount rate reductions. This is especially true if a multi-year plan is approved and low-income rates are not revisited if commodity prices rise.

Q. WHAT DO YOU CONCLUDE WITH RESPECT TO THE LOW-INCOME BILL ASSISTANCE PROGRAMS PROPOSED IN THE JOINT PROPOSAL?

A. The Joint Proposal changes in the gas program would make significant steps in the direction of affordability. I recommend that the proposed gas discounts be accepted and

that the Company and stakeholders be charged with working to enroll all eligible customers and to develop an even more robust low-income rate, one that will make gas service more affordable for Con Edison customers. The approach to enrollment has been to set targets with no strong policy decision to provide the low-income rate to all eligible customers. The results of this collaboration should be presented within 2 years or by the time of the next rate case.

Q. PLEASE TURN TO THE QUESTION OF CUSTOMER SERVICECOMPLIANCE CRITERIA FOR HEFPA COMPLIANCE. FIRST, PLEASE EXPLAIN WHAT HEFPA IS.

A. The Home Energy Fair Practices Act is a New York statute that sets out in some detail the rights and responsibilities of utility customers with regard to access to, and maintenance of utility service.

Q. WHAT IS THE PURPOSE OF HEFPA?

A. The New York Public Service Law provides:

> § 30. Residential gas, electric and steam service policy. This article shall apply to the provision of all or any part of the gas, electric or steam service provided to any residential customer by any gas, electric or steam and municipalities corporation or municipality. It is hereby declared to be the policy of this state that the continued provision of all or any part of such gas, electric and steam service to all residential customers without unreasonable qualifications or lengthy delays is necessary for the preservation of the health and general welfare and is in the public interest.

Q. DOES CON EDISON FAITHFULLY FOLLOW THE REQUIREMENTS OF HEFPA?

A. Con Edison claims that it does. There is evidence that suggests it does not, that Con Edison follows its own rules and requirements regarding credit and billing, and that as a result customers have been denied service illegally.

Q. PLEASE GIVEAN EXAMPLE OF A RECENT CASE WITH MULTIPLE VIOLATIONS OF HEFPA.

A. Counsel informs me that recently a woman, newly widowed, applied for electric service in her own name, and was threatened with service termination and denied service in her name unless she paid the remainder of her late husband's bill. Along the way to the woman's trying to remedy this violation of HEFPA, and get service restored, Con Edison violated a number of procedural protections intended to make sure utilities give customer service issues due attention and responsible care.

Q. DOES CON EDISON ADMIT TO THESE FACTS?

A. No. In response to PULP requests to admit, Con Edison replied that it would not confirm or deny the circumstances of any particular customer's efforts to obtain service. A copy of the Response to the Notice to Admit is attached.

Q. IS CON EDISON'S REFUSALTO ADMIT OR DENY THE CIRCUMSTANCES OF ITS DENIAL OF A WIDOW'S RIGHT TO SERVICE CONSISTENT WITH CON EDISON'S POSITION ON CUSTOMER PRIVACY OTHERWISE?

A. No. It would appear that, if there is media attention to an individual case, and the desire to get Con Edison's version of the story out to the public, Con Edison will in fact discuss the particulars of a customer's case. This is what happened when in October 2013, three young children died in their apartment, which caught fire while the family's electricity was disconnected for non-payment and they were using candles for illumination while

awaiting reconnection. Reconnection was required under HEFPA, because a DSS payment had been authorized. According to the attached news reports, in this instance Con Edison publicly claimed that the customer owed large amounts and that shutoff to a household that was eligible for and did receive a DSS grant had been done only as a last resort.

- According to WABC News, "**A spokesman for Con Ed says** power had been cut off to the family's apartment for non-payment." *FDNY says fire that killed 3 boys in the Bronx sparked by candle*, available at http://abclocal.go.com/wabc/story?section=news/local/new_york&id=9301860.
- According to DNAInfo New York: "Electricity had been shut off less than a day earlier due to unpaid bills, Con Edison said…. **A Con Edison spokesman said** the apartment's electric meter had been removed and power shut off on Thursday**…. Con Edison also said** they'd tried extensively to reach the renters. "We try to avoid turning service off for customers, we try to put customers on payment plans and avoid turnoff, but this account unfortunately had a significant amount of arrears," said a spokesman. He said the utility also referred customers to social services programs that offer assistance with bills. *Three Young Boys Killed in Bronx Fire That Leaves 10 Injured*, available at http://www.dnainfo.com/new-york/20131026/high-bridge/three-young-boys-killed-bronx-fire-that-left-10-injured/

- According to CBS News, "As 1010 WINS' Eileen Lehpamer reported, Con Edison confirmed that it had shut off power to the apartment due to non-payment. Neighbors said the mother of five who lived in the unit had been using the candles as an alternative to light the apartment. The power had only been off for a few days, Con Ed told CBS 2", available at http://newyork.cbslocal.com/2013/10/26/police-candles-likely-caused-fire-that-killed-3-young-boys-in-the-bronx/

Emphasis added. These press reports indicate that Con Edison has no compunction about violating "privacy rights" of a family it so zealously purports to guard in refusing to admit or deny the facts in the widow's case I have noted. The DNAInfo New York story also indicates that the landlord said "the one-bedroom unit was still in Turner's grandmother's name." This raises a question whether another adult member of the household where the three children died might have established a new account in her name, as HEFPA allows. As the Notice to Admit puts forth, Con Edison has not followed HEFPA in establishing new accounts at premises where the customer has died. Note also that Con Edison suggests these two incidents have no relation to the issues in this case, whereas they go to the heart of the question of Con Edison's faithfulness in observing HEFPA.

Q. PLEASE LIST THE HEFPA VIOLATIONS THAT CON EDISON APPARENTLY COMMITTED IN DENYING THE WIDOW SERVICE IN HER OWN NAME.

A. Con Edison must promptly provide service upon application to a person who does not have arrears in his or her name, under PSL 31. Further it must provide written notice of denial if it refuses service, stating the factual and legal basis for the denial and what must be done to get service. As indicated in the Notice to Admit, Con Edison claimed in a discovery answer it has no practice of denying service to applicants at premises where a deceased customer died with arrears owing. That answer appears to be false, based on the experience of the widow who repeatedly sought to establish service in her name after her husband died.

Q. WHY DO YOU RECOMMEND THAT HEFPA COMPLIANCE BE INCLUDED AS A CUSTOMER SERVICE STANDARD, SUBJECT TO PENALTIES FOR FAILURE TO OBSERVE CUSTOMERS' RIGHTS UNDER HEFPA?

A. The Joint Proposal contains no provision for measuring compliance with HEFPA. Observing customers' rights for gaining access to service and maintaining service in the fact of credit or eligibility disputes is every bit as important a customer service standard as the speed at which a telephone call to the call answering center is answered. Fidelity to HEFPA has immediate substantive (and potentially life and death) consequences.

Q. BUT WHY DOES HEFPA COMPLIANCE NEED TO BE INCLUDED AS AN EXPLICIT CUSTOMER SERVICE PERFORMANCE REQUIREMENT, AND SUBJECT TO PENALTIES FOR FAIURE TO COMPLY?

A. Stepping back from the specific issue of customer service standards, the general concern is that in an effort to trim costs and thus make or exceed return targets, a utility will cut the staff and resources that are necessary to carefully ensure customers' rights are observed. The Joint Proposal fixes Con Edison's revenues with the Revenue Decoupling

Mechanism. A way to earn more is to cut costs, and indeed, that is the goal in multi-year cases where the utility is given strong incentives to reduce costs. But a utility may also feel pressure to apply its own credit and collection policies, even if not permitted under HEFPA, in an effort to try to maximize its net receipts. As with other practices where a utility faces financial pressure to choose where to put resources, and to allow certain aspects of service to become substandard, a performance standard with appropriate penalties is important to give management the incentive to hold the line in faithful observance of the customer service performance in question. Also, plans such as contained in the Joint Proposal may make existing utility programs to assist persons in applying for service or keeping service on - basic goals of HEFPA -- vulnerable to cost cutting moves. See *The Gas Company as Social Worker; Brooklyn Utility Tries Softer Approach to Pursue Unpaid Bills*, NY Times, Jan. 17, 1999 ("Because low-income programs often do not pay for themselves, some utilities are quietly eliminating them"). available at http://www.nytimes.com/1999/01/17/nyregion/gas-company-social-worker-brooklyn-utility-tries-softer-approach-pursue-unpaid.html.

Q. IS THERE ANY REASON WHY CON EDISON SHOULD OPPOSE INCLUSION OF HEFPA COMPLIANCE IN ITS CUSTOMER SERVICE PERFORMANCE PLAN?

A. No. If Con Edison is confident that system wide it has a good track record faithfully observing customers' rights under HEFPA, it should have no objection to including this as a performance metric in the rate settlement.

Q. PLEASE TURN NOW TO THE QUESTION OF WHETHER THE COMMISSION SHOULD APPROVED THE TWO-YEAR RATE "FREEZE" CONTAINED IN

THE JOINT PROPOSAL. FIRST, PLEASE EXPLAIN THE MECHANICS OF THE RATE "FREEZE."

A. Section B.1 describes the Joint Proposal with respect to electricity rates:

> **B. 1 Rates and Revenue Levels**
> **Electric**
> This Proposal recommends changes to the Company's electric delivery service rates and charges, including the fixed component of the Monthly Adjustment Clause ("MAC"), designed to produce a $76.192 million reduction in revenues on an annual basis starting in RY1 and a $123.968 million increase in revenues on an annual basis starting in RY2.
> The Signatory Parties *propose that these two base rate changes be implemented on a levelized basis to provide rate stability over the term of the Electric Rate Plan. The annual levelized revenue changes associated with T&D delivery revenue, the retained generation component of the MAC and purchased power working capital would be zero in each of RY1 and RY2* … [Emphasis supplied, footnotes omitted]

Q. IN PLAIN LANGUAGE, WHAT DOES THE JOINT PROPOSAL OFFER CUSTOMERS, WITH REGARD TO THE PATH OF ELECTRICITY RATES IN THE NEXT TWO YEARS?

A. The Joint Proposal recognizes that, all else equal, electric rates should go down in 2014. However, JP signatories claim that they have estimated that the Company would require a rate increase in 2015. To provide "rate stability," the JP signatories propose that no rate decrease be accorded consumers in 2014, but that electric rates be maintained at their present levels throughout the two year term of the proposal.

Q. WHAT DO JP SIGNATORIES PROPOSE WITH RESPECT TO THE PATH OF GAS RATES IN THE NEXT TWO YEARS?

A. Section B.2 of the Joint Proposal provides as follows, for base gas rates:

> **B.2 Rates and Rate Levels - Gas**
>
> This Proposal recommends changes to the Company's retail gas sales and gas transportation service rates and charges, designed to produce a $54.602 million

> reduction in revenues on an annual basis starting in RY1, a $38.620 million increase in revenues on an annual basis starting in RY2, and an additional *$56.838 million increase in revenues on an annual basis starting in RY3. The Signatory Parties propose that these three base rate changes be implemented on a levelized basis to provide rate stability over the term of the Gas Rate Plan. The annual levelized revenue changes would be zero in each of RY1, RY2 and RY3.* ... [Emphasis supplied, footnotes omitted].

Q. IN PLAIN LANGUAGE, WHAT DOES THE JOINT PROPOSAL OFFER CONSUMERS, WITH REGARD TO THE PATH OF GAS RATES IN THE NEXT THREE YEARS?

A. The Joint Proposal recognizes that, all else equal, gas rates should go down in 2014 by over $54 million. However, JP signatories claim that they have estimated that the Company would require a gas rate increase in 2015 and 2016. To provide "rate stability," the JP signatories propose that no rate decrease be accorded consumers in 2014, but that gas rates be maintained at their present levels, and gas customers see no relief, for the next three years.

Q. WHY SHOULD CONSUMERS HAVE TO WAIT FOR THE DECREASE IN RATES THAT EVEN THE SIGNATORIES AGREE IS DUE TO CUSTOMERS IN 2014?

A. There is no sound policy reason to delay the reduction in electric and gas rates that even the JP signatories agree is due to customers today. Rate stabilization is a recognized goal of ratemaking, but it is not usually applied to a situation in which a utility wants to maintain excessively high tariffs over a two or three-year period. Customers do not want rate stability in this situation so much as they want relief from what are among the highest bills in the country. Administrative convenience is also no grounds for forcing consumers to delay receipt of rate reductions due them.

Q. WHY WOULD CUSTOMERS PREFER A RATE DISCOUNT NOW, IF THERE IS A POSSIBILITY THAT RATES WOULD JUST HAVE TO BE INCREASED IN A YEAR OR TWO?

A. Con Edison customers have been overpaying for a number of years now, as the Staff analyses showed. The shareholders have held on to these excess profits, while deferring expenditures on necessary items such as pension and related employee benefits, expenditures they expect customers to pay for. Meanwhile, New York and Westchester are emerging from the "Great Recession," but job growth remains insufficient to being unemployment back to reasonable levels. This is particularly the case when one considers that many middle class New Yorkers have been unable to find work with sufficient pay and benefits to preserve their housing, send their kids to college, and otherwise maintain the middle-class life they worked hard and long to develop. It must also be acknowledged that the Great Recession has caused a particularly high number of people to be unemployed for long periods. Not only has Congress so far refused to extend unemployment benefits to such families, it is widely recognized that employers who have a choice between a candidate who is only recently unemployed and a long-time unemployed person will tend to favor the worker who has not been out of the workforce as long. The result of these conditions is that many middle managers, in the prime of their careers with successful and remunerative employment, who lost their jobs after the financial debacle have lost all realistic chances to maintain their "American Dream." These families need a rate discount now. They should not have to wait a year or two for credits, the extent of which is untested under this settlement. Rates should be reduced

now. Let Con Edison come back in a year's time and show that it is entitled to additional revenues, based on a record fully explored at that time.

Q. ARE THERE OTHER POLICY FLAWS IN THE PROPOSED LEVELIZATION OF RATES CONTAINED IN THE MULTI-YEAR FACET OF THE JOINT PROPOSAL?

A. Yes. First, non-signatories have had no meaningful opportunity to examine the numbers and assumptions behind the Joint Proposal. The Company initially filed a multi-year rate case. But after settlement discussions last summer failed to produce a meaningful basis for moving forward with settlement, the case was litigated as a one-year rate case. Evidence of costs and revenues from later years was excluded. Parties were admonished to stick to evidence concerning 2014 revenue requirements, and we did. Further, as the Commission knows, comments on the proposal are due today, but this schedule has not permitted non-signatories any realistic opportunity to explore the reasonableness of the assumptions underpinning the JP. Perhaps most importantly, the figure recited in the Joint Proposal as representing the amount of historic overpayment being returned to customers, $7.5 million, is not supported. There is no effort to analyze the extent to which customers have overpaid in recent years, and to ensure that these excess profits are disgorged and returned to consumers.

Q. BY HOW MUCH SHOULD ELECTRIC AND GAS RATES BE REDUCED TODAY, ON ACCOUNT OF 2014 REVENUE REQUIREMENTS ALONE?

A. The Joint Proposal itself acknowledges an electric overcollection over the two-year proposed rate period of $76 million. The Joint Proposal acknowledges a gas overcollection under three-year term of $45 million. In addition, my colleague, Mr.

Yates, has quantified the reduction in revenue requirements that would result from the adoption of the Staff expert testimony on required equity returns. In addition, the $16.7 million austerity adjustment in the revenue requirement should be retained, given the difficult financial situation of the service territory. Further, the variable management pay should be removed from the revenue requirement; there is no cause to reward management with bonuses in light of the failure to include criteria by which compliance with HEFPA is measured. Note that the case of the widow denied service, discussed above, and the relatively low performance of Con Edison on such call center metrics as percent of calls answered within 30 seconds, suggests that the financial results for which managers are being rewarded may have come in response to reductions in necessary expenditures for customer service. There are likely other reductions that are amply supported on the record in this docket.

Q. WILL THE ACCESS TO RETAIL COMPETITORS MAKE UP FOR THE FAILURES IN THE JOINT PROPOSAL TO SUFFICIENTLY REDUCE RATES?

A. No. First, the two situations are not causally linked. The refunds are due regardless of the availability of alternative sources of supply. Second, as Mr. Yates has shown, for small customers there are serious risks of overpayment in choosing a competitive supplier. This is not a surprise to me, since my review of the economics of retail competition since we introduced it in New Hampshire in the late 1990s has persuaded me that the margins on sales to small customers are too thin to support competitive operations, which places

pressure on ESCOs serving that market to find ways to induce customer subscription despite lower default commodity costs available to them.

Q. DOES THIS CONCLUDE YOUR SUPPLEMENTAL TESTIMONY ON THE JOINT PROPOSAL?

A. Yes.

CON EDISON ANSWERS TO PULP SECOND REQUEST FOR ADMISSIONS

1

I. FDNY says fire that killed 3 boys in the Bronx sparked by candle

Sunday, October 27, 2013

EMBED

Related Video

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- **FDNY says candle likely cause of fatal Bronx fire**
- Eyewitness News
- http://abclocal.go.com/wabc/story?section=news/local/new_york&id=9301860

HIGHBRIDGE (WABC) -- Investigators say the fire that killed three children in the Bronx Friday night was accidental, caused by a candle in the kitchen area.

The three-alarm fire broke out inside a building on West 165th Street in the Highbridge section.

5-year-old Elijah Artis, 2-year-old Jeremiah Artis, and 4-month-old Michael Turner were killed in the fire.

Their 25-year-old mother, 4-year-old sister, and 4-month-old baby sister were taken to Lincoln Hospital where they were being treated for smoke inhalation.

Neighbor Eddie Tate took one of the girls from her mother, and carried her to safety.

Ten other people from surrounding apartments were treated for smoke inhalation, but none had life-threatening injuries.

A spokesman for Con Ed says power had been cut off to the family's apartment for non-payment.

According to neighbors, the mother had gone to the bodega downstairs and bought candles to light the apartment.

Fire marshals said the apartment did not have smoke alarms.

The mother had been approved for public assistance, and the lights were due to come back on Saturday.

II. Related Photos

Bronx fire leaves 3 children dead - Photos
View all 7 photos

III. Three Young Boys Killed in Bronx Fire That Leaves 10 Injured

IV. By Claire Cameron and Jess Wisloski on October 26, 2013 11:07am | Updated on October 26, 2013 3:58pm

V. http://www.dnainfo.com/new-york/20131026/high-bridge/three-young-boys-killed-bronx-fire-that-left-10-injured/

Slideshow

Fire Leaves 3 Children Dead

THE BRONX — Three little boys were dead and ten others were injured after a fire engulfed a second floor apartment of a building in High Bridge, fire officials and witnesses said.

Three brothers were killed in the blaze, which touched off around 7:56 p.m. after a candle in the kitchen ignited the fire, according to the FDNY. Electricity had been shut off less than a day earlier due to unpaid bills, Con Edison said.

Elijah Artis, 5, and his brothers Jeremiah Artis, 2, and Michael Turner, 4 months old and a twin, were all killed in the South Bronx fire.

The children's father, who stopped by the 64 W.165th Street briefly, uttered, "I'm just taking it as best as I could. One day at a time," to members of the press outside his burned out home, before friends blocked him off from questions Saturday.

Upstairs resident Valerie Frazier, who lives on the fifth floor, was among many neighbors at 64 W.165th Street who watched helplessly from the street as the children, who lived in the apartment with two other siblings, were burned alive.

"When I got downstairs [the mother] grabbed me and said, 'Can you go get my kids for me?'" But they told me I couldn't go back up there. She just started screaming and crying but there was nothing we could do," said Frazier.

The boys' mother, Tashika Turner, 25, who had been in the apartment she shared with five of her six children and her boyfriend, ran out of the apartment with her oldest daughter Maya, 4, when

the fire began, then tried to go back in to rescue the others — the two boys and 4-month-old twins — but she was unable to get back in, Frazier said.

Two men rushed into the apartment to try and rescue them, and they saved the infant girl, who neighbors said was named Michelle, by dropping her from the fire escape to a waiting neighbor, Charlotte Amakye, on the ground. They were unable to get back in to rescue the others, said Amakye.

"Two guys rushed in and one of them said, 'Here,' and I took her," said Amakye. "I took her and she looked passed out like she's passing away, and I took her into the store right here, and I took a wet cloth and wiped the black off her face, and rubbed [her] chest. [She] sort of threw up a bit, then was alive again." WrokerShe said she saw an EMT giving CPR to another child at the scene.

The children's father, Artis, approached the building as the blaze was in its full fury, Frazier said. "He came just after we got out and he was like, 'Is everybody okay?' And everybody was screaming 'It's your kids!' And he started running to get them, but it was too late."

"I'm devastated," she added. "They were such sweet and beautiful and outgoing kids."

A Con Edison spokesman said the apartment's electric meter had been removed and power shut off on Thursday.

The electric bills had totaled $8,700 and had about $500 of late fees tacked on, a landlord told DNAinfo.com. He said the one-bedroom unit was still in Turner's grandmother's name, Charlotte Brownlee.

"If [Turner] had approached me, I would have given them a [extension] cord," said a landlord, Anthony Guddemi, who added that he had no clue the family had recently welcomed newborn twins. "It's a complicated situation."

Con Edison also said they'd tried extensively to reach the renters. "We try to avoid turning service off for customers, we try to put customers on payment plans and avoid turnoff, but this account unfortunately had a significant amount of arrears," said a spokesman. He said the utility also referred customers to social services programs that offer assistance with bills. "It's a terrible terrible tragedy that three children died."

FDNY Deputy Chief Paul Manix used one word to describe the scene Friday night: "Bedlam. It was bedlam," he said, outside the building on Saturday.

"Very chaotic. We try our best, but that night we had three losses. We are here to help, and we couldn't help." As soon as they got water on the fire, it went out quickly, he said, but it was already too late.

Frazier, who had seen the family's gutted apartment after the blaze, called the sight "gruesome. It just looks like a horror movie."

She said she and other neighbors would've helped with the electric bill if they had been aware. "I just wish I had known. We would have all chipped together to pay for them. I guess the kids all got too much for her."

A neighbor who lived above the family, on the third floor, said she heard the screaming from the street, and tried to run in and save the children herself.

"She saw me and said, 'Help me my kids are dying!' And I ran in and I kicked the door down. I kicked the door off. But the fire was crazy. I couldn't get them."

Woods said the children were "like part of my family" and she is planning to stay elsewhere for a while after the terrifying event.

"I still hear them babies crying. I still see them dead. I can't just walk past that door. I can't do it," she said.

"They were beautiful. They would run and just hug me. Very good looking children. They are still beautiful."

Another neighbor from the block, Eddie Tee, said Turner shoved the older girl Maya into his arms when she saw him, so she could try to go back for the others.

"Her hair was burnt, she was coughing, her left arm was burned and she had a cut on her right leg. She wasn't breathing right. She was complaining she was hot, so we took her shirt off and she had burns all on her body," said Tee.

Red Cross workers were on the scene to help relocate people and offer a hot meal at a nearby school for displaced tenants, officials said.

Ten others were injured, including one child who was in critical condition at Lincoln Hospital on Saturday morning, fire officials said.

Three others were suffering serious injuries. An investigation was ongoing

CBS New York

http://newyork.cbslocal.com/2013/10/26/police-candles-likely-caused-fire-that-killed-3-young-boys-in-the-bronx/

NEW YORK (CBSNewYork) — Police and fire officials Saturday morning said candles may have been to blame for a fire that left three small children dead in the Bronx.

The Fire Marshal's office said a candle in the kitchen likely caused the fire swept through an apartment at 64 W. 165th St. in the Highbridge section of the Bronx just before 8 p.m. Friday.

As 1010 WINS' Eileen Lehpamer reported, Con Edison confirmed that it had shut off power to the apartment due to non-payment. Neighbors said the mother of five who lived in the unit had been using the candles as an alternative to light the apartment.

The power had only been off for a few days, Con Ed told CBS 2.

play video

- Police: Candles Likely Caused Fire That Killed 3 Young Boys In The Bronx
- 1010 WINS' Eileen Lehpamer.

As CBS 2's Janelle Burrell reported, there was a massive response from firefighters, but it just was not enough to save the three young lives inside.

Elijah and Jeremiah Artis, ages 5 and 2, respectively, were pronounced dead at Lincoln Medical and Mental Health Center, officials said. A baby, 4-month-old Michael Turner, did not make it out of the building alive.

"They said it was a combination of smoke inhalation and burns" that caused the children's deaths, said FDNY Assistant Chief Ronald Spadaforda.

The 25-year-old mother, along with the other two children – a 4-year-old girl and a 4-month-old girl – were in stable condition after being treated for smoke inhalation, police said.

Fire officials said the flames were contained mostly to the family's second-floor apartment. But the fire burned through two stories to the top floor.

A total of about 100 firefighters responded to the scene, and found frightened residents rushing out when they arrived.

"I opened my door and the flames. I was scared," said building resident Robin Morris. "See that window right there? I had to break the gate to get out, and I was on the fire escape for 20 minutes."

Firefighters worked hard to help neighbors get to safety.

"Units really had their hands full trying to knock down the fire, as well as taking out occupants from inside the apartments," Spadafora said.

Neighbor Mattie Ballard, who lives next door to unit 2C where the flames started, recounted the terrifying moments Saturday morning.

"The yelling and screaming – and I didn't know what it was at first," Ballard said. "I ran to my door, and the fire was beeping out of the door; of my door."

Ballard was horrified by the tragic results of the blaze.

"It's terrible. It's just terrible," she said. "I'm sick in here. I feel sick to think about it."

On Saturday night, a small makeshift memorial was growing below the fire escape where Tashika Turner, 25, tried desperately to save her children from the blaze.

Turner and her children were sleeping in this living room when the fire broke out on Friday night. (Credit CBS 2)

Turner had been sleeping with children in the living room of the second floor apartment when the fire broke out.

"She had to pass the kitchen to get to the apartment door. So she had to go the other direction which is the fire escape," FDNY spokesman Jack Mooney said.

Turner was able to get her 4-year-old daughter out through a second floor window.

Charlotte Amakye told CBS 2′s Hazel Sanchez that she caught 4-month-old Michelle as she was being dropped from a fire escape.

"I rushed the baby to the store to get a paper towel and water to wipe the face with the smoke and everything and tried to rub her chest like that. All of a sudden she cough and start throwing up. That's when I noticed she was still alive," Amakye said.

The smoke was too intense for Turner to head back inside for her three sons. As this family attempts to recover, the pain from their loss is only just the beginning.

"There's no words. You can't describe that pain, that feeling," neighbor Valerie Frazier said.

Friends and family have started raising money to cover funeral costs and to help the family get back on their feet.

Consolidated Edison Rate Cases
Case No. 13-E-0030, etc.
December 27, 2013

Public Utility Law Project of New York

Second Request for Admissions 3-22

Pursuant to New York Public Service Commission ("Commission") regulation 16 N.Y.C.R.R. §5.5, the Public Utility Law Project of New York, Inc. requests Con Edison within 10 days to respond to these requests for admission, for purposes of this proceeding only, of the genuineness of the attached documents and the truth of the following statements:

3. A genuine copy of section 31 of the public service law regarding the obligation to provide service to applicants and notice of denial is attached as attachment A.

   Response: The Company objects to the request to admit the genuineness of the Public Service Law, which speaks for itself.

4. A genuine copy of section 11.3 of the public service commission regulations regarding the obligation to provide service to applicants and notice of denial is attached as attachment B.

   Response: The Company objects to the request to admit the genuineness of the Public Service Law, which speaks for itself.

5. A genuine copy of Con Edison's response to PULP Interrogatory Number 83 in this proceeding, regarding provision of service to applicants where a deceased relative has outstanding unpaid charges, dated May 4, 2013, is attached as Attachment C.

   Response: Admit without waiving any objections the Company may have as to further reference to this response in this proceeding.

6. In PULP Interrogatory 83, Con Edison was asked:

   When a customer dies owing money to Con Edison and a relative provides proof of the customer's death and requests service in his or her name, and the relative seeking service does not owe Con Edison for service to a prior account in his or her name, ***is it a practice or policy of Con Edison to deny service to the applicant unless the applicant pays or makes arrangements to pay the debt owed by the deceased customer?*** (Emphasis added)

   Response: Admit without waiving any objections the Company may have as to further reference to this response in this proceeding.

7. In its answer to PULP Interrogatory Number 83, Con Edison stated:

> No. Con Edison does not deny service to an applicant under such circumstances. In such cases, the account is closed as of the date on the Death certificate and the representative asks for the address that the final bill should be sent to.

Response: Admit without waiving any objections the Company may have as to further reference to this response in this proceeding.

7.1 A genuine copy of Con Edison's Response to PULP Interrogatory #83 is attached as Attachment C.

Response: Admit without waiving any objections the Company may have as to further reference to this response in this proceeding.

8. Con Edison witnesses on its Customer Operations Panel testified at page 59 of its prefiled rebuttal testimony, at line 7-8, in opposition to Utility Project's proposals for reducing reliance on service termination as a bill collection measure, that "Discontinuing service remains a last resort for the Company."

Response: Admit without waiving any objections the Company may have as to further reference to this response in this proceeding.

9. In November 16, 2013 the residential customer with Con Edison account number [redacted] died with arrears on his account, some of which had been disputed.

Response: The Company objects to this request as it is outside the scope of this proceeding and would violate the Company's obligations to protect personal customer information.

10. Con Edison representatives attempted to collect the arrears owed by the deceased customer with account numbe[redacted] from the customer's spouse, threatening termination of service if $200 is not paid on an installment plan by December 20, 2013. The surviving spouse' request for a copy of any written deferred payment agreement was refused.

Response: The Company objects to this request as it is outside the scope of this proceeding and would violate the Company's obligations to protect personal customer information.

11. The surviving spouse of the deceased customer with account number [redacted] does not owe Con Edison any money from any prior account in her name. She and two children are facing very difficult financial circumstances with the reduction of household income due to her husband's death.

Response: The Company objects to this request as it is outside the scope of this proceeding and would violate the Company's obligations to protect personal customer information.

12. After receiving the shutoff threats, the spouse of the deceased customer with account number [redacted] went to Con Edison walk-in office at 1 Metrotech Center, Brooklyn with her spouse's death certificate and papers to discuss the situation and establish service in her name.

    Response: The Company objects to this request as it is outside the scope of this proceeding and would violate the Company's obligations to protect personal customer information.

13. Con Edison was required by Commission Order to maintain customer service walk-in centers where customers and applicants of service could do business with the utility in person- *Joint Petition of the Public Utility Law Project of New York, Inc., Local 1-2 of the Utility Workers of America, A.F.L.-C.I.O., and Save Our Services for a Commission Order that Consolidated Edison Company of New York, Inc. Cease Closing Customer Service Offices and Re-Open Customer Service Offices Already Closed. ORDER APPROVING JOINT PROPOSAL* (Issued and Effective March 27, 2001).

    Response: The Company objects to the request to admit what was required by a Commission Order, which speaks for itself.

    > 13.1 The Order states:
    > Each Walk-in Center will have sufficient staffing and resources to allow customers to transact any and all normal business with the company promptly and efficiently. Customers will be able to speak with the Con Edison representative in person. The centers will have bilingual representative as required by the community served....
    > The same level of service formerly provided by the Customer Service Centers will continue to be provided at the Walk-in Centers, and customers will be able to place service orders, discuss billing disputes, negotiate payment arrangements, make bill payments, and transact other business in the same manner as they always have.

    Response: The Company objects to the request to admit what was required by a Commission Order, which speaks for itself.

14. Con Edison in its last compliance progress report filed November 17, 2003 in Case 99 - M-0851 stated that "four customer service professionals" would staff its 1 Metrotech Center location.

Response: Admit without waiving any objections the Company may have as to further reference to this response in this proceeding.

15. Con Edison has not petitioned the Commission for relief or to modify the Order in Case 99-M-0851 requiring on-site customer assistance staff at its walk-in service centers.

Response: Admit without waiving any objections the Company may have as to further reference to this response in this proceeding.

16. The customer service center at 1 Metrotech Center, Brooklyn had no worker there to assist the applicant for service who is the spouse of the deceased customer with account number [redacted] and she was referred to a house telephone in the lobby.

16.1 When she used the phone she spoke to an representative who threatened her with service termination if she did not pay the bills of her deceased spouse.

16.2 The Con Edison representative did not close the account of the deceased customer and open a new account as indicated in Con Edison's answer to PULP IR 83.

16.3 The representative's last name was Sedkowsky (sp).

Response: The Company objects to Request 16 and each of its subparts as they are outside the scope of this proceeding and would violate the Company's obligations to protect personal customer and employee information.

17. The spouse of the deceased customer with account number [redacted] called Con Edison again to request service to an account in her name.

17.1 She did not receive assistance from Con Edison in establishing an account for service in her name.

17.2 She was told, in substance, that she could not apply for service until she had paid the arrears on her deceased spouse's account.

17.3 Her request for any payment plan that her deceased spouse had signed was denied.

17.4 She said she was going to contact the Department of Public Service, and was told by the Con Edison representative, in substance, not to bother, that it would be a waste of her time to call the PSC's Office of Consumer Services, because they would do nothing and would support the position of Con Edison and that if she did not pay the amount demanded, her service will be terminated.

17.5 The customer was not provided notice of the factual and legal basis for the denial of

service.

Response: The Company objects to Request 17 and each of its subparts as they are outside the scope of this proceeding.

18. Con Edison routinely records and transcribes conversations between its customer service representatives and applicants for service.

    18.1 The conversations summarized above were recorded and can be transcribed.

Response: The Company objects to Request 18 and its subpart as they are outside the scope of this proceeding.

19. The spouse of the deceased customer with account number [redacted] called the Department of Public Service Office of Consumer Services on December 16, 2013 and spoke to someone named Chris(sp) who would not give his last name and did not take a complaint or take steps to address the continued provision of service, but suggested she might send an online complaint to the PSC.

Response: The Company objects to the request as it is outside the scope of this proceeding and would violate the Company's obligations to protect personal customer information .

20. The Public Service Commission has never commenced a penalty proceeding against Con Edison for failing to comply with the Home Energy Fair Practices Act (HEFPA).

Response: Admit without waiving any objections the Company may have as to further reference to this response in this proceeding.

21. None of the customer service performance metrics in the current rate plan measure compliance with HEFPA, including:

    a. meeting time limits for provision of service,
    b. timely provision of denial notices,
    c. payment to customers of amounts due them for untimely provision or reconnection of service
    d. timely reconnections after payments sufficient to restore service are made,
    e. accepting proof of identity through means other than Social Security numbers,
    f. forbearing from termination of customers with serious medical conditions that would be worsened by termination,
    g. termination of service for breach of "oral" deferred payment agreements, or
    h. the duty to proffer written deferred payment agreements prior to termination.

Response: Admit without waiving any objections the Company may have as to further reference to this response in this proceeding.

22. Con Edison's answer to PULP's Interrogatory No. 83 is false.

22.1 Con Edison does have a practice or policy to deny service to an applicant unless the applicant pays or makes arrangements to pay the debt owed by a deceased customer.

Response: Deny. The response provided to PULP's Interrogatory No. 83 provides an accurate description of the Company's policy.

Cases 13-E-0030, et al., Con Edison 2013 Rates
December 17, 2013

PUBLIC UTILITY LAW PROJECT OF NEW YORK, INC.'S SECOND REQUEST TO CON EDISON FOR ADMISSIONS #3 - 22

Pursuant to New York Public Service Commission ("Commission") regulation 16 N.Y.C.R.R. §5.5, the Public Utility Law Project of New York, Inc. requests Con Edison within 10 days to respond to these requests for admission, for purposes of this proceeding only, of the genuineness of the attached documents and the truth of the following statements:

3. A genuine copy of section 31 of the public service law regarding the obligation to provide service to applicants and notice of denial is attached as attachment A.

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5. A genuine copy of Con Edison's response to PULP Interrogatory Number 83 in this proceeding, regarding provision of service to applicants where a deceased relative has outstanding unpaid charges, dated May 4, 2013, is attached as Attachment C.

6. In PULP Interrogatory 83, Con Edison was asked:

> When a customer dies owing money to Con Edison and a relative provides proof of the customer's death and requests service in his or her name, and the relative seeking service does not owe Con Edison for service to a prior account in his or her name, ***is it a practice or policy of Con Edison to deny service to the applicant unless the applicant pays or makes arrangements to pay the debt owed by the deceased customer***? (Emphasis added)

7. In its answer to PULP Interrogatory Number 83, Con Edison stated:

> No. Con Edison does not deny service to an applicant under such circumstances. In such cases, the account is closed as of the date on the Death certificate and the representative asks for the address that the final bill should be sent to.

7.1 A genuine copy of Con Edison's Response to PULP Interrogatory #83 is attached as Attachment C.

8. Con Edison witnesses on its Customer Operations Panel testified at page 59 of its prefiled rebuttal testimony, at line 7-8, in opposition to Utility Project's proposals for reducing reliance on service termination as a bill collection measure, that "Discontinuing service

remains a last resort for the Company."

9. In November 16, 2013 the residential customer with Con Edison account number 611192022800037 died with arrears on his account, some of which had been disputed.

10. Con Edison representatives attempted to collect the arrears owed by the deceased customer with account number 611192022800037 from the customer's spouse, threatening termination of service if $200 is not paid on an installment plan by December 20, 2013. The surviving spouse' request for a copy of any written deferred payment agreement was refused.

11. The surviving spouse of the deceased customer with account number 611192022800037 does not owe Con Edison any money from any prior account in her name. She and two children are facing very difficult financial circumstances with the reduction of household income due to her husband's death.

12. After receiving the shutoff threats, the spouse of the deceased customer with account number 611192022800037 went to Con Edison walk-in office at 1 Metrotech Center, Brooklyn with her spouse's death certificate and papers to discuss the situation and establish service in her name.

13. Con Edison was required by Commission Order to maintain customer service walk-in centers where customers and applicants of service could do business with the utility in person- *Joint Petition of the Public Utility Law Project of New York, Inc., Local 1-2 of the Utility Workers of America, A.F.L.-C.I.O., and Save Our Services for a Commission Order that Consolidated Edison Company of New York, Inc. Cease Closing Customer Service Offices and Re-Open Customer Service Offices Already Closed. ORDER APPROVING JOINT PROPOSAL* (Issued and Effective March 27, 2001).

13.1 The Order states:

> Each Walk-in Center will have sufficient staffing and resources to allow customers to transact any and all normal business with the company promptly and efficiently. Customers will be able to speak with the Con Edison representative in person. The centers will have bilingual representative as required by the community served....
>
> The same level of service formerly provided by the Customer Service Centers will continue to be provided at the Walk-in Centers, and customers will be able to place service orders, discuss billing disputes, negotiate payment arrangements, make bill payments, and transact other business in the same manner as they always have.

14. Con Edison in its last compliance progress report filed November 17, 2003 in Case 99-

M-0851 stated that "four customer service professionals" would staff its 1 Metrotech Center location.

15. Con Edison has not petitioned the Commission for relief or to modify the Order in Case 99-M-0851 requiring on-site customer assistance staff at its walk-in service centers.

16. The customer service center at 1 Metrotech Center, Brooklyn had no worker there to assist the applicant for service who is the spouse of the deceased customer with account number 611192022800037, and she was referred to a house telephone in the lobby.

16.1 When she used the phone she spoke to an representative who threatened her with service termination if she did not pay the bills of her deceased spouse.
16.2 The Con Edison representative did not close the account of the deceased customer and open a new account as indicated in Con Edison's answer to PULP IR 83.
16.3 The representative's last name was Sedkowsky (sp).

17. The spouse of the deceased customer with account number 611192022800037 called Con Edison again to request service to an account in her name.

17.1 She did not receive assistance from Con Edison in establishing an account for service in her name.
17.2 She was told, in substance, that she could not apply for service until she had paid the arrears on her deceased spouse's account.
17.3 Her request for any payment plan that her deceased spouse had signed was denied.
17.4 She said she was going to contact the Department of Public Service, and was told by the Con Edison representative, in substance, not to bother, that it would be a waste of her time to call the PSC's Office of Consumer Services, because they would do nothing and would support the position of Con Edison and that if she did not pay the amount demanded, her service will be terminated.
17.5 The customer was not provided notice of the factual and legal basis for the denial of service.

18. Con Edison routinely records and transcribes conversations between its customer service representatives and applicants for service.

18.1 The conversations summarized above were recorded and can be transcribed.

19. The spouse of the deceased customer with account number 611192022800037 called the Department of Public Service Office of Consumer Services on December 16, 2013 and spoke to someone named Chris(sp) who would not give his last name and did not take a complaint or take steps to address the continued provision of service, but suggested she might send an online complaint to the PSC..

20. The Public Service Commission has never commenced a penalty proceeding against Con Edison for failing to comply with the Home Energy Fair Practices Act (HEFPA).

21. None of the customer service performance metrics in the current rate plan measure compliance with HEFPA, including

.1 meeting time limits for provision of service,

.2 timely provision of denial notices,

.3 payment to customers of amounts due them for untimely provision or reconnection of service

.4 timely reconnections after payments sufficient to restore service are made,

.5 accepting proof of identity through means other than Social Security numbers,

.6 forbearing from termination of customers with serious medical conditions that would be worsened by termination,

.7 termination of service for breach of "oral" deferred payment agreements, or

.8 the duty to proffer written deferred payment agreements prior to termination.

22. Con Edison's answer to PULP's Interrogatory No. 83 is false.

22.1 Con Edison does have a practice or policy to deny service to an applicant unless the applicant pays or makes arrangements to pay the debt owed by a deceased customer.

Public Service

§ 31. Applications for service. 1. Every gas corporation, electric corporation or municipality shall provide residential service upon the oral or written request of an applicant, provided that the commission may require that requests for service be in writing under circumstances as it deems necessary and proper as set forth by regulation, and provided further that the applicant:

(a) makes full payment for residential utility service provided to a prior account in his name; or

(b) agrees to make payments under a deferred payment plan of any amounts due for service to a prior account in his name and makes a down payment based on criteria to be established by the commission. No such down payment shall exceed one-half of any money due from an applicant for residential utility service, or three months average billing, whichever is less; or

(c) is a recipient of public assistance, supplemental security income or additional state payments pursuant to the social services law, or is an applicant for such assistance, income or payments, and the utility corporation or the municipality receives payment from, or is notified of the applicant's eligibility for utility payments by the social services official of the social services district in which such person resides for amounts due for service to a prior account in the applicant's name, together with guarantee of future payments to the extent authorized by the social services law.

2. In the event a utility corporation or municipality denies an applicant's application for service it shall provide prompt written notice to such applicant of its reasons for denying service, specify what the applicant must do to qualify for service, and advise the applicant of his right to investigation and review of the denial of service by the department if the applicant considers such denial to be without justification. Any such notice denying service shall be sent to an applicant within three business days after either a completed oral or written application for service is received, provided however, the commission may specify a different period for good cause. The commission may also establish such additional notice requirements upon a utility corporation or municipality as it believes necessary to assure reasonable notification and protection for applicants.

3. Subject to the requirements of subdivisions four and five of this section, whenever a residential customer moves to a new residence within the service territory of the same utility corporation or municipality, he shall be eligible to receive service at the new residence and such service shall be considered a continuation of service in all respects, with any deferred payment agreement honored, and with all rights of such customer and such utility corporation provided by this article unimpaired.

4. In the case of any application for service to a building which is not supplied with electricity or gas, a utility corporation or municipality shall be obligated to provide service to such a building, provided however, that the commission may require applicants for service to buildings located in excess of one hundred feet from gas or electric transmission lines to pay or agree in writing to pay material and installation costs relating to the applicant's proportion of the pipe,

A-1

(c) incomplete construction of necessary facilities by the applicant or inspection thereof by the appropriate authorities; or

(d) incomplete construction of necessary facilities by the distribution utility. The distribution utility shall make reasonable efforts to eliminate conditions preventing extension of service and shall pursue completion of any facilities it must construct with due diligence.

(v) An oral application for service shall be deemed completed when an applicant who meets the requirements of paragraphs (1)-(3) of this subdivision provides his or her name, address, telephone number and address of prior account (if any) or prior account number (if any). A distribution utility may establish non-discriminatory procedures to require an applicant to provide reasonable proof of the applicant's identity. Service may be denied to applicants who fail to provide reasonable proof of identity. A distribution utility may require an applicant to complete a written application if:

(a) there are arrears at the premises to be served and service was terminated, disconnected or suspended for nonpayment or is subject to a final notice of termination, disconnection or suspension;

(b) there is evidence of meter tampering or theft of service;

(c) the meter has advanced and there is no customer of record; or

(d) the application is made by a third party on behalf of the person(s) who would receive service. A written application may require the submission of information required in an oral application, and reasonable proof of the applicant's responsibility for service at the premises to be supplied. A distribution utility requiring a written application shall so notify an applicant as soon as practicable after the request for service is made, and in no event more than two business days after such request, and shall state the basis for requiring a written application. A written application containing the required information shall be deemed completed when received by the distribution utility. Comment: When a written application is permitted, a distribution utility may require the applicant to provide a copy of a lease (if one exists), deed, bill of sale or other documentation to show the date the applicant became responsible for service. A distribution utility must make a diligent effort to notify promptly an applicant who will be required to submit a written application. If a distribution utility is unable to contact the applicant orally, it must, not later than the second business day after the request for service is received, send a written notice to the applicant.

(5) Subject to the requirements of paragraph (4) of this subdivision, whenever a residential customer moves to a different dwelling within the service territory of the same distribution utility and for which the distribution utility's tariff specifies a residential rate, and requests distribution utility service within 60 days, he or she shall be eligible to receive service at the different dwelling, and such service shall be considered a continuation of service in all respects, with any deferred payment agreement honored, and with all rights; provided, however, that such customer's prior service was not terminated, disconnected or suspended for nonpayment, meter-tampering or theft of services.

(6) A distribution utility shall extend service to an applicant for residential service whose application for service has previously been denied within two business days (or such later time as may be specified by the applicant) after the following events:

(i) elimination of all the conditions specified in paragraphs (2) - (4) of this subdivision which resulted in the denial

requirements, labor disputes or law. A utility corporation or municipality shall initiate service promptly to applicants, and any such corporation or municipality which fails to provide timely service to an applicant as required by this subdivision without good cause as determined by the commission, shall forfeit and pay to such applicant the sum of twenty-five dollars per day for each day that such service is not supplied. The chairman shall designate such officers and employees as he deems necessary to act on complaints relating to applications for service.

6. In the event the service sought in applications submitted pursuant to this section is comprised of the provision of gas or electricity commodity only, nothing in this section shall require the provision of such service to any and all such applicants; provided, however, that nothing in this subdivision shall prevent or preclude the commission or a court from ordering the provision of such service to all such applicants if such order is authorized pursuant to or required to implement a provision of law other than this article.

A-3

§ 11.3 Applications for residential service

(a) Extension of service. (1) Consistent with the provisions of paragraphs (2)-(4) of this subdivision, every distribution utility shall provide residential service to an applicant upon his or her oral or written request.

(2) A distribution utility shall not be obligated to provide service to an applicant who owes the distribution utility money for residential service provided to a prior account in his or her name unless:

(i) the applicant makes full payment for residential service provided to any such prior account in his or her name;

(ii) the applicant agrees to make payments under a deferred payment plan of any amounts due for service to a prior account in his or her name, pursuant to section 11.10 of this Part;

(iii) the applicant has pending a billing dispute pursuant to section 11.20 of this Part with respect to any amounts due for service to a prior account in his or her name and has paid any amounts required to be paid pursuant to those provisions;

(iv) the applicant is a recipient of or an applicant for public assistance, supplemental security income benefits or additional State payments pursuant to the Social Services Law, and the distribution utility receives from an official of the social services district in which the applicant resides, or is notified by such an official that it is entitled to receive, payment for services due to a prior account in the applicant's name together with a guarantee of future payments to the extent authorized by the Social Services Law; or

(v) the commission or its authorized designee directs the provision of service.

(3) A distribution utility shall not be obligated to provide service to an applicant for seasonal or short-term service who fails to post a lawfully required deposit.

(4) A distribution utility shall be obligated to provide service to any applicant who meets the requirements of paragraphs (1) and (2) of this subdivision within five business days of receipt of a completed oral or written application for service, or such later time as may be specified by the applicant, except:

(i) where prevented by labor strikes or precluded by law;

(ii) where precluded by consideration of public safety;

(iii) where the applicant fails to pay or agree in writing to pay the material and installation costs relating to line extensions as required by Parts 98 and 230 of this Title, or otherwise fails to comply with any applicable requirements of Parts 99, 100, 103 and 233 of this Title, and the commission's minimum insulation standards for gas-heating customers contained in Op. No. 77-10 as described in section 10.3 of this Title (17 NY PSC 546; 17 NY PSC 861); or

(iv) where precluded by physical impediments including:

(a) adverse weather conditions;

(b) inability to gain access to premises in the possession of the applicant or others;

B-1

conduit, duct or wire, or other facilities to be installed.

5. A utility corporation or municipality shall institute service to any applicant who meets the requirement of subdivision one of this section, within five business days after such applicant applies for service, provided however, such requirement shall not apply where the institution of service within five business days is prevented by adverse weather conditions, serious physical impediments, construction

A-2

of service; or

(ii) by direction of the commission or its authorized designee, who may require such extension of service to be made within 24 hours.

(b) Denial of application for service--notice. (1) As used in this subdivision, the terms deny and denial shall mean any determination, by a representative of a distribution utility in response to an application for service, that service will not be initiated as requested. An application for service not approved within three business days shall be deemed denied.

(2) No distribution utility shall deny an application for service without sending to the applicant, within three business days of receipt of the application for service, written notice which:

(i) states the reasons for the denial;

(ii) specifies precisely what the applicant must do to qualify for service; and

(iii) advises the applicant of the right to an investigation and review of the denial by the commission or its authorized designees if the applicant considers the denial to be without justification. The distribution utility shall advise the applicant of the appropriate address and telephone number of the commission, including the commission's hot-line number and the times of its availability.

(3) The notice required by paragraph (2) of this subdivision shall be in writing and shall be either served personally upon the applicant or mailed to the applicant at his or her current address unless a different address is specified. When the written notice is given by mail, the distribution utility shall make a reasonable effort to provide immediate notice orally.

(4) Every distribution utility shall maintain, for a period not less than one year, records of oral or written requests for service that are denied, including the name and address of the applicant, the date of the application and the utility representative(s) who denied it.

(c) Penalty. A distribution utility failing to initiate service within the time required by this section shall forfeit and pay to the applicant the sum of $ 25 per day for each day that service is not supplied unless the commission finds that the distribution utility had good cause for not initiating service in the required time.

Company Name: Con Edison
Case Description: Con Edison Electric, Gas & Steam Rate Cases
Case: 13-E-0030, 13-G-0031, 13-S-0032

Response to PULP Interrogatories – Set PULP 3
Date of Response: 05/21/2013
Responding Witness:

Question No. :083
When a customer dies owing money to Con Edison and a relative provides proof of the customer's death and requests service in his or her name, and the relative seeking service does not owe Con Edison for service to a prior account in his or her name, is it a practice or policy of Con Edison to deny service to the applicant unless the applicant pays or makes arrangements to pay the debt owed by the deceased customer?

Response:
No. Con Edison does not deny service to an applicant under such circumstances. In such cases, the account is closed as of the date on the Death Certificate, and the representative asks for the address that the final bill should be sent to.

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