

STATE OF NEW YORK PUBLIC SERVICE COMMISSION

- CASE 16-E-0060 – 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-G-0061 – 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 15-E-0050 – 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-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.

NEW YORK POWER AUTHORITY POST-HEARING BRIEF

Justin E. Driscoll
Executive Vice President and General Counsel
New York Power Authority

Attorneys of Record:

Gary D. Levenson
David J. Appelbaum
Andrew F. Neuman

New York Power Authority
123 Main Street
White Plains, NY 10601

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INTRODUCTION

The New York Power Authority (“NYPA”) hereby submits this post-hearing brief in accordance with the procedural orders of the presiding Administrative Law Judges in this proceeding. NYPA submits that the attempt by the Utility Intervention Unit (“UIU”) of the New York State Department of State to seek to modify the Joint Proposal (“JP”) filed by Consolidated Edison Company of New York Inc. (“Con Edison” or “Company”) with the New York Public Service Commission (“Commission”) on September 20, 2016 in this proceeding, is unsupported. Because the UIU’s central thesis is that the Company’s Embedded Cost of Service Study (“ECOS”) is flawed, UIU bears the high burden of demonstrating that the adoption of the ECOS in the JP to develop rate class deficiencies and surpluses falls outside the range of reasonable results that would occur in litigation. The UIU fails in its mission to cast the ECOS as outside this reasonable range of outcomes for at least two reasons. First, its contention that only UIU is an effective advocate for residential and small commercial customers is contradicted by the record. And second, the rate impacts of the ECOS itself upon residential customers is modest.¹

NYPA is a corporate municipal instrumentality and a political subdivision of the State, authorized under the New York Public Authorities Law to serve as the full requirements power supplier to a number of governmental entities in the New York City metropolitan area. NYPA’s interest in these proceedings arises principally from NYPA’s payment of Con Edison’s delivery charges which it passes through to its governmental customers. NYPA’s customers include the City of New York (“City”), New York City Housing Authority (“NYCHA”), Metropolitan Transportation Authority (“MTA”), Port Authority of New York and New Jersey, the New York

¹ NYPA also agrees with the Company and Department of Public Service Staff (“DPS Staff”) that the ECOS is based on sound ratemaking principles that have been subject to thorough scrutiny over many proceedings.

State Office of General Services and the County of Westchester (“Westchester”) including over 100 governmental entities within Westchester, among others. NYPA seeks to ensure that these state, county and municipal agencies performing vital services for public electric rates that are just and reasonable.

I. Numerous Rate Case Participants Advocate on Behalf of Residential Customers, Not Just UIU.

The UIU’s underlying premise in its attack upon the Company’s ECOS is that only the UIU (along with perhaps the Public Utility Law Project, which did not contest the ECOS in this proceeding) can serve as an effective advocate for the residential customer class. Exh. 163 at 24. However, as the record shows, the City represents the interests of residential customers in Con Edison rates cases through testimony on numerous issues including prudence of utility spending and cost containment, adjustments to revenue requirements, improving programs that would provide financial incentives to customers and also on increasing aid to low income customers. Exh. 241 at 2-3. While the City advocated for larger discounts to low income customers in its pre-filed testimony, UIU in the instant proceeding, neglected to do so. Tr. 171-73, Nov 3. Nor did the UIU submit testimony to advocate for the protection of at-risk populations in the Company’s rate plan, while the City did. Tr. 174-76, Nov 3.

Furthermore, DPS Staff points out that in every rate proceeding its experts review and analyze consumer services and low income issues to “ensure that the Company continues to perform better and follows Commission policy objectives.” Exh. 141 at 6-7.

UIU’s presumption that the Company’s ECOS is flawed because it does not reflect the point of view of residential customers is also belied by the active participation in this case and prior ones by NYPA, Westchester and the MTA. NYPA advocates for a fair allocation of

revenues in establishing the deficiency or surplus for its rate class, in order to advance the interests of its customers, which include the City, the MTA, Westchester and NYCHA among others. While these constituent entities added together make NYPA a “large” customer class, average, everyday New York residents benefit from any delivery rate savings that the NYPA class may enjoy through its advocacy in these proceedings.

As the UIU Electric Rate Panel on the Joint Proposal (“UIU Electric Panel”) admitted, NYPA’s electricity sales at fair delivery rates assist in the City’s ability to provide a myriad essential services such as police, schools, sanitation, emergency services, environmental protection and parks and recreation, among others. Tr. 131-32, Nov. 3; *see also* Exh. 264 at 2. Certainly, there can also be no debate that service to NYCHA, another governmental customer of NYPA, is, in effect, a type of residential customer class. Exh. 264 at 2. NYCHA, whose residents are comprised of low-income residential electric consumers, manages roughly 177,000 residential units and serves nearly 600,000 New Yorkers. Tr. 133, Nov. 3. Furthermore, to the extent UIU argues that an “ongoing affordability crisis” in New York City supports its cause on behalf of residential customers, *see* Exh. 163 at 8, 21-22, there is no reason to suggest that NYCHA residents would not be similarly affected. In essence, UIU cannot claim that NYPA’s interests are not also supportive of residential customers.

It should also be emphasized that the MTA, a NYPA customer that provides transportation services benefitting all New Yorkers, together with the City and NYPA, were supportive in advocating for a reallocation of high-tension (“HT”) system costs contained in the ECOS. This change was a necessary and equitable correction to the rates paid by the MTA, which represents a disproportionate share of the HT customer accounts. *See* Exhs. 214 (MTA testimony) and 257 (NYPA testimony).

II. The ECOS Represents a Small Portion of Total Rate Increase Sustained by Residential Customers.

UIU's criticism of the ECOS is also misplaced when one considers the ECOS's costs impacts on the residential customers. As the UIU Electric Panel admitted, its criticism of the ECOS manifested itself, at least with respect to Rate Year 1 of the JP's three-year rate plan, in the deficiencies and surpluses by rate class shown on Appendix 19, Table 2, page 1 of 3 of the JP. Tr. 142-44, Nov 3. The UIU Electric Panel further agreed that these ECOS-related impacts occur *before any* application of the increased revenue requirement proposed by the Company in this case. Tr. 142:13-143:2, Nov 3.

The referenced page indicates that for the residential customers, SC-1, their deficiency is \$12.445 million² out of total class T&D revenues of \$1.938 billion,³ which is 0.00642, or 0.642 percent. In contrast, the RY1 T&D increase is 4.34%.⁴ This demonstrates that the criticisms of the ECOS are small compared to the total rate increase sustained by the SC-1 class. UIU has not advanced a convincing case that the ECOS has significant flaws that should cause the Commission to modify the JP.

CONCLUSION

For the reasons set forth above, the Commission should reject the UIU's request to modify the JP. There is no convincing evidence that the residential customer class would have fared better in a litigated proceeding. The ECOS represents an outcome which is within the range of reasonable results that would have arisen from a Commission decision, which is an

² Column 2 of Appendix 19, Table 2, Page 1 of 3.

³ Column 1 of Appendix 19, Table 2, Page 1 of 3.

⁴ Column 1c of Appendix 19, Table 2, Page 3 of 3.

important criterion under the Commission's Settlement Guidelines.⁵ Accordingly, the arguments raised by UIU have no merit, and should be rejected.

Respectfully submitted,

/s/Gary D. Levenson

Gary D. Levenson

New York Power Authority

123 Main Street

White Plains, NY 10601

gary.levenson@nypa.gov

www.nypa.gov

⁵ Case 90-M-0255, Proceeding on Settlement Procedures and Guidelines, Opinion No. 92-2 (issued March 24, 1992), Appendix B at 8.