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October 17, 2016

Honorable Kathleen H. Burgess
Secretary to the Commission
New York Public Service Commission
Three Empire State Plaza
Albany, New York 12223

Re: Cases 16-E-0060 & 16-G-0061, *et al.*
Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of
Consolidated Edison Company of New York, Inc. for Electric & Gas Service

Dear Judge Wiles, Judge Lecakes, and Secretary Burgess:

Under a cover letter dated October 13, 2016, Utility Intervention Unit (“UIU”) filed an Initial Statement on the Joint Proposal (“October 13 Statement”) in the above captioned proceeding. UIU has identified a factual inaccuracy in its Initial Statement on the Joint Proposal that was mistakenly not removed prior to filing. Page 40 mistakenly reads, “The Company offered no prefiled rebuttal testimony in response.” Page 47 mistakenly reads, “and not at all in rebuttal testimony (it offered none). Only ...any.” On page 44, UIU identified a citation error.

To correct these errors, UIU is submitting errata to pages 40, 44, and 47 of its October 13 Statement that removes these statements in redlined and clean versions. In addition on page 40 UIU replaces “even” with “adequately.” On page 47, UIU replaces “no” with “little.” Finally, UIU adds the text “Page 3 of Schedule 1 of Exhibit __ (UGRP-JP-2) through...” to correct footnote 146 on page 44. UIU requests that the enclosed pages be substituted for the equivalent pages of the October 13 Statement. UIU apologizes for any inconvenience that this errata may cause.

Please contact the undersigned if you have any questions or require further information.

Respectfully submitted,

Kathleen O’Hare
Excelsior Fellow
518-486-7758



**Department
of State**

Attachment

Cc: Parties (Case 16-E-0060 & 16-G-0061)

minimum system methodology, because even this improved “minimum system” would still retain considerable load-carrying capability, but it would lessen such harmful impacts and would more closely align the Company’s hypothetical “minimum system” with the theory underlying that approach.

b. UIU Recommends a D08 Allocator Based Entirely on Non-Coincident Peak.

UIU recommends the Commission modify the D08 allocator (applied to demand-related secondary delivery plant) to be based on 100% NCP for each service class. In addition to reflecting the Company’s actual system planning and construction practices, this modification would align the Company’s D08 allocator with well-established utility practice (including among New York utilities).

C. Gas Cost of Service (Joint Proposal Sec. H(1))

The JP relies on the results of the Company’s gas ECOS study, to the exclusion of all other considerations, to allocate gas costs.¹³² This aspect of the JP is similar to the analogous electric provisions in the JP, and it suffers from many of the same flaws. For example, the JP’s gas revenue rates would be inconsistent with rate gradualism and proportionality, and would ignore other relevant factors. This shortsighted approach is particularly striking in the gas context because the Company has failed to justify – or ~~even adequately~~- defend – its flawed gas ECOS study in prefiled testimony. UIU’s Gas Rates Panel submitted detailed prefiled testimony demonstrating that the Company’s gas ECOS study does not accurately reflect system planning or engineering considerations, and would inappropriately shift apparent cost responsibility onto smaller customers. ~~The Company offered no prefiled rebuttal testimony in response.~~

To avoid redundancy, the following comments provide only a limited discussion of those defects of the Company’s gas ECOS study that are analogous to those of its electric ECOS study. For a fuller discussion of the flaws of the Company’s gas ECOS study, please see the UIU Gas Rates Panel’s Testimony on the JP (especially pages 28 through 67).

¹³² See JP § H(1).

UIU recommends that the Commission modify the JP's allocation of electric and gas revenues to provide more equitable treatment of small customers. Especially in light of their shortcomings, the company's ECOS studies should not form the sole basis of revenue allocations in these cases. A broader perspective supports mitigating rate impacts on lower-use customers. However, we urge the Commission to give significant weight to the ECOS studies submitted by UIU and our recommendations concerning the appropriate allocation of the AMI-related portion of the incremental revenue requirements. Please see Exhibit___(UERP-JP-7) Schedules 1-5 and Exhibit___(UGRP—JP-27) through Exhibit ___(UGRP-JP-7).¹⁴⁶ UIU's ECOS study results, the evidence concerning the AMI-related portion of the revenue requirement, the application of other revenue-allocation considerations, and Commission precedent suggest the JP revenue allocation is heavily biased against small customers. In particular, the Commission should reduce the deficiency allocated to residential customers in both electric and gas systems, and assign those customers a rate increase no greater than the system average.

II. The Joint Proposal Does Not Satisfy the Commission's Settlement Guidelines.

In addition to considering whether the Joint Proposal is in the public interest, the Commission's Settlement Guidelines provide that in determining whether to approve a Joint Proposal, the Commission should consider:

(1) the settlement's consistency with law and with the regulatory, economic, social, and environmental policies of the Commission and the State; (2) whether the result compares favorably with the likely result of full litigation and is within the range of reasonable outcomes; (3) whether the settlement strikes a fair balance among the interests of ratepayers and investors and the long-term soundness of the utility; (4) the existence of a rational basis for decision; (5) the completeness of the record; and (6) whether the settlement is contested.¹⁴⁷

The JP fails to satisfy these six factors with respect to revenue allocation, and the Commission should therefore modify those aspects of the JP.

¹⁴⁶ See Page 3 of Schedule 1 of Exhibit ___(UGRP-JP-2) through Exhibit___(UGRP—JP-7) at PDF pages 19, 34, 49, 64, 79, and 94.

¹⁴⁷ See Case 92-M-0138 *supra*, Opinion 92-2 at 30.

Furthermore, with respect to gas revenues and rates, the JP's signatories nearly failed to offer even a superficial rebuttal of UIU's litigation position. The Company, for example, made ~~no little~~ effort to defend its gas ECOS study in prefiled testimony. The Company's Gas Rates Panel barely addressed the allocation of distribution mains at all in prefiled direct testimony.¹⁵⁵ ~~and not at all in rebuttal testimony (it offered none). Only~~ The City of New York submitted ~~any~~ prefiled testimony disagreeing with UIU's gas ECOS and revenue allocation proposals. The relative strength of parties' litigation positions – and the likely outcome of a fully-litigated proceeding – thus favored UIU from the outset of the case.¹⁵⁶

Proponents of the JP's revenue allocations may argue that the number of parties supporting the JP's revenue allocations outnumber those parties who oppose them, which would have favored the proponents' chances of succeeding on these issues were the case to have been fully litigated. This argument would fail for several reasons. First, the number of parties does not correspond to the factual or legal merit of their shared position. Second, many proponents share overlapping – or identical – interests with respect to revenue allocation. One such overlapping interest is the interest of large energy consumers, who make up a minority of the Company's ratepayers. The convergence of revenue-allocation interests among JP proponents undermines the implication that they are "correct" in proportion to their numbers.

3) *The JP's Revenue Allocations Do Not Strike a Fair Balance Among the Interests of Ratepayers.*

The JP reflects a one-sided approach to revenue allocations that favors a select group of larger customers at the expense of all other customers. The many ways in which the Company's revenue allocation proposals are unfair to smaller customers have been demonstrated at length above and need not be repeated here. Furthermore, as noted above, the JP only deviates from the Company's proposed revenue allocation methodologies to grant **additional** concessions to larger customers (and further harm other customers as a result). It is telling that neither party that represents smaller-customer interests signed the JP – the JP simply does not reflect those interests.

¹⁵⁵ The Company's Gas Rates Panel mentioned the treatment of distribution mains in its gas ECOS study in prefiled Exhibit__ (GRP-1) at 6. The allocation of distribution mains is not mentioned in the Panel's prefiled direct testimony.

¹⁵⁶ Similarly, no party offered prefiled testimony disputing the presence of an unaffordability crisis among the Company's residential customers, as described in the prefiled Direct Testimony of William Yates.

minimum system methodology, because even this improved “minimum system” would still retain considerable load-carrying capability, but it would lessen such harmful impacts and would more closely align the Company’s hypothetical “minimum system” with the theory underlying that approach.

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