

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

PACE ENERGY AND CLIMATE CENTER'S
INITIAL POST-EVIDENTIARY HEARING BRIEF

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In accordance with the Administrative Law Judges' November 15, 2016 Ruling Extending Brief Schedule, Pace Energy and Climate Center ("Pace") hereby submits its post-hearing brief in support of the Commission's approval of the Joint Proposal that Consolidated Edison Company of New York, Inc. ("Con Edison" or "the Company") filed on September 20, 2016 ("Joint Proposal").

I. INTRODUCTION

On September 20, 2016, Con Edison filed a Joint Proposal in support of a proposed multi-year rate plan for electric and gas service. In addition to Pace, signatories to and in support of the Joint Proposal include New York State Department of Service Staff ("Staff"); the City of New York; New York Power Authority; Public Utility Law Project of New York, Inc.; New York Energy Consumers Council; Community Housing Improvement Program; Metropolitan Transportation Authority; Environmental Defense Fund, Natural Resources Defense Council; County of Westchester; Consumer Power Advocates; E-Cubed Company; Digital Energy Corporation; Association for Energy Affordability; Acadia Center; Energy Concepts Engineering PC; Great Eastern Energy; United States General Services Administration; Joint Supporters; North East Combined Heat and Power initiative; and the Real Estate Board of New York.¹ The Joint Proposal balances the varied interests of an extremely diverse group of signatory parties and the terms of the Joint Proposal are within the range of outcomes that would have resulted had the instant cases proceeded to fully-litigated hearings. Pace considers the Joint Proposal to represent a promising step forward toward full Reforming the Energy Vision ("REV")² implementation, and consistent with the goals of REV.

¹ See Joint Proposal at 1-2.

² A number of different dockets have been assigned to various aspects of the REV proceeding at the Commission, including, but not limited to, 14-M-0101, Proceeding on Motion of the Commission in

In accordance with the administrative Law Judges' September 26, 2016 Ruling on Schedule, Pace filed an Initial Statement in Support of the Joint Proposal as a resolution of these cases on October 13, 2016. A few parties actively opposed specific portions of the Joint Proposal, including Riverbay Corporation, Energy Spectrum, Inc., Great Eastern Energy, The E Cubed Company LLC³ and New York Independent Contractors Alliance.⁴ Pace takes no position on the issues that these entities raise in their opposition to specific portions of the Joint Proposal.

The broadest set of objections to the Joint Proposal comes from the New York State Department of State Division of Consumer Protection, Utility Intervention Unit ("UIU").⁵ UIU filed initial and reply statements, along with testimony, in opposition to the Joint Proposal, objecting to, among other things, the use of the Company's gas and electric embedded cost of service ("ECOS") studies, and Advanced Metering Infrastructure ("AMI") cost allocation for the three years included in the Joint Proposal.⁶

After all statements in support and opposition to the Joint Proposal were submitted, evidentiary hearings on the Joint Proposal took place on November 2, and 3, 2016. At the end of the hearings, the Administrative Law Judges issued a Briefing Schedule from the bench allowing parties to brief, in ten pages or less, issues that arose at the hearings.⁷

Regard to Reforming the Energy Vision; these dockets are collectively referred to herein as the "REV proceeding."

³ Statement in Opposition to the Joint Proposal of Energy Spectrum, RiverBay Corporation and Great Eastern Energy, and Statement in Limited Support of the Joint Proposal by The E Cubed Company LLC, all filed on October 13, 2016.

⁴ New York Independent Contractors Alliance Testimony in Opposition to the Joint Proposal, October 13, 2016.

⁵ Initial Statement of the Utility Intervention Unit on the Joint Proposal filed on October 13, 2016.

⁶ *Id.* at pp 5-7.

⁷ Case nos. 16-E-0060 and 16-G-0061, transcript of evidentiary hearing held in New York City on November 3, 2016 ("Nov. 3 Tr.") at 365:4-10. Note: the due date for these briefs, as noted on the cited transcript page, was originally November 14, 2016. However, at the request of counsel, ALJ LeCakes extended the due date for submission of briefs to November 16, 2016.

The single issue that Pace would like to address in this brief is AMI cost allocation. The AMI cost allocation included in the Joint Proposal should be adopted without modification and parties should, as contemplated by the Joint Proposal's silence on this issue, litigate and/or negotiate longer-term AMI allocation in the next Con Ed rate case, when the bulk of the AMI costs will be incurred.

II. DISCUSSION

The Commission, in its Order Approving Advanced Metering Infrastructure Business Plan Subject to Conditions ("AMI Order"),⁸ approved Con Edison's AMI Business Plan, subject to a \$1.285 billion cap on capital expenditures.⁹

The Joint Proposal authorizes the Company to incur and recover certain electric and gas AMI capital costs over the three rate years that the Joint Proposal covers.¹⁰ Most of the overall AMI costs will be recovered in the next rate plan, not the three years included in the Joint Proposal.¹¹

While the Joint Proposal establishes funding for certain AMI costs during the three year rate plan,¹² the Joint Proposal is silent on how AMI costs will be allocated among customer classes. Because the Joint Proposal is silent on AMI cost allocation, UIU claims that the Joint Proposal does not satisfy the AMI Order.¹³ UIU also states that the allocation of revenues in the

⁸ Case no. 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, Order Approving Advanced Metering Infrastructure Business Plan Subject to Conditions, issued and effective March 17, 2016.

⁹ *Id.* at 50.

¹⁰ *See, e.g.*, Joint Proposal Appendix 10 at 1-2.

¹¹ Case nos. 16-E-0060 and 16-G-0061, transcript of evidentiary hearing held in New York City on November 2, 2016 ("Nov. 2 Tr.") at 317:18-24.

¹² *See, e.g.* Joint Proposal at 33-34 and 46-47.

¹³ UIU Initial Statement on the Joint Proposal at 11. "The JP does not expressly describe how these AMI costs would be allocated among customer classes despite the Commission's instruction that allocation of AMI cost 'be determined in rate proceedings'," citing the AMI Order at 49.

Joint Proposal is based on the Company's current gas and electric embedded costs of service studies,¹⁴ studies that UIU claims are flawed.¹⁵ Further, UIU claims that many of the benefits of AMI will largely flow to large customers, while smaller customers will largely bear the costs of AMI deployment.¹⁶ UIU believes that AMI cost allocation should be based on AMI's benefits.¹⁷ UIU ultimately recommends that the Commission modify the Joint Proposal and allocate AMI costs in this rate plan based on energy usage (as a proxy for benefits).¹⁸

The Company, Staff, and some other parties, in their Reply Statements in Support of the Joint Proposal and/or at the evidentiary hearing, disagreed with UIU's position that AMI allocation should be based on benefits for the three years covered by the Joint Proposal. For example, Staff testified that AMI allocation should not be based on benefits, at least not at this time:

Q. Does this Panel agree with the recommendation to allocate any portion of AMI costs based on benefits?

A. Not at this time. The benefits of AMI will change over time, as the benefits are dependent upon costs that are not constant (such as labor costs, energy costs, and capital costs)....¹⁹

¹⁴ *Id.* at 18.

¹⁵ *See, e.g., Id.* As set forth in Pace's Statement in Support at fn 16, Pace supports the adoption and approval of the Joint Proposal. However, for the reasons set forth in its filed testimony, Pace does not join in on sections G.1. and H.1. of the Joint Proposal pertaining to electric and gas revenue allocation and the use of the Company's Electric and Gas Embedded Cost of Service Studies without modification of any of the allocations, especially as to the use of the alternative demand allocator to the demand portion of low-tension distribution plant (the D08 allocator) and the allocation of primary distribution infrastructure costs to the customer cost category.

¹⁶ UIU Initial Statement on the Joint Proposal at 18. "Higher-use customers may also be better positioned to take advantage of the less directly quantifiable benefits of AMI. Larger customers are more likely than small customers to have the resources and capabilities to understand and utilize the rich usage data that AMI will provide."

¹⁷ *Id.* "The revenue allocations contained within the JP do not fairly apportion AMI's costs in relation to the benefits it will confer on customers."

¹⁸ *Id.* at 21. "The Commission should therefore modify the allocation of AMI costs in this rate plan to explicitly require AMI costs to be allocated in a way that is consistent with the distribution of benefits, as recommended in UIU's testimony in this proceeding." UIU recommends an AMI allocation based on energy, as a proxy for benefits, at least for the three-year rate plan that is part of the JP. *Id.* at 11 and 19.

¹⁹ Nov. 2 Tr. at 452:4-10.

As a result, and for other reasons set forth in its filings and testimony, Staff recommends that the Commission find that AMI costs should not be based on benefits, at least “not at this time.”²⁰

While Pace generally agrees with UIU that AMI allocation should be based, at least in part, on AMI’s benefits,²¹ Pace supports adopting the JP as currently written, leaving the issue of final AMI allocation for the next rate case.

Pace recommends that the Commission leave the issue of AMI allocation for the next rate case for a number of reasons. First, the AMI deployment is expected to take six years.²² Some of the costs of the AMI deployment will be incurred and allocated during the three-year period included in the Joint Proposal. However, the majority of the AMI costs will be incurred and allocated in future periods.²³ In addition, the interim AMI allocation included in the Joint Proposal is based on the Company’s 2013 ECOS study, which did not include any AMI expenditures.²⁴ In the next rate case the Company, Staff, and other parties will have a chance to evaluate AMI costs with the aid of new ECOS studies that will include AMI costs.

Pace recommends that the Commission leave the issue of final AMI allocation, and whether benefits should be considered in connection with AMI allocation, until the next rate case. The intentional silence in the Joint Proposal on AMI cost allocation indicates that the

²⁰ *Id.* See also, Staff’s Statement in Reply to Opposition to Joint Proposal at 6 and Reply Testimony on Joint Proposal of Staff Electric and Gas Rates Panel at 12:21 to 17:17.

²¹ See Case nos. 16-E-0060 and 16-G-0061, Direct Testimony of Karl Rábago (“KRR Direct”), filed May 27, 2016, at 14:10 to 16:14.

²² Case no. 15-E-0050, Con Edison Advanced Metering Infrastructure Business Plan, filed November 16, 2015, at 1. “In this document, Con Edison presents in detail the many benefits to its customers of such technology and then describes its proposed plan to implement AMI for all customers over six years, including the change management that will be necessary to effectuate a smooth transition to AMI adoption.”

²³ Nov. 2 Tr. at 317:12-24.

²⁴ Nov. 2 Tr. at 337:23 through 339:8.

parties who signed the Joint Proposal intended to defer the final AMI allocation issue until the next rate case.²⁵

Finally, the Joint Proposal adopts a functionalization structure, which will help separately track AMI costs, along with numerous metrics that will help quantify actual AMI performance and benefits as AMI is installed.²⁶ This new information should help Con Edison, Staff and interested parties better determine how to allocate AMI costs in the next rate case.

III. CONCLUSION

For the reasons described above, the cost allocation presented in the Joint Proposal is within the range of litigated outcomes that would have occurred had the parties proceeded to a fully litigated hearing. The AMI cost allocation included in the Joint Proposal should be adopted without modification and parties should litigate and/or negotiate longer-term AMI cost allocation in the next Con Edison rate case.

²⁵ See Joint Proposal Appendix 19.

²⁶ See, e.g., Joint Proposal at Appendices 18 and 19. Pace in pre-filed testimony proposed a functionalization structure to track costs of certain REV-related activities, including AMI. See KRR Direct at 5:12-19; 17:13-15. As Con Edison is easing into its new role as a Distributed System Platform provider, it should monitor the costs of activities it takes on as part of that role. KRR Direct at 14:10-18. Such monitoring will allow the company to effectively determine how, for example, AMI benefits and spending benefit particular groups of customers. *Id.* at 14:19 to 15:4. Mr. Rábago states, “Company spending and benefits relating to [activities and functions it will undertake as a distributed system platform provider] should be carefully allocated with more precision than the Company currently applies.” *Id.* Correct functionalization prevents cross subsidization among classes. As Mr. Rábago states, “...correct functionalization is about avoided unintended cross subsidization. So, some of the costs and benefits enabled by an advanced meter should be allocated to the demand component of costs and benefits in order to support efficient and fair pricing of demand response programs for example.” *Id.* at 16:11-14.

Respectfully Submitted,

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Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing document was served via electronic mail on all parties to the proceeding on this 16th day of November, 2016.

/s/ Willard Burns