



November 10, 2016

Hon. Kathleen H. Burgess  
Secretary  
New York State Public Service Commission  
Three Empire State Plaza  
Albany, NY 12223-1350

Re: 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.

Dear Secretary Burgess:

Pursuant to the New York State Public Service Commission's ("Commission") Notice Seeking Comments issued on September 28, 2016 in the above-referenced cases, Astoria Generating Company, L.P. ("AGC") hereby comments on the joint proposal ("JP") filed by Consolidated Edison Company of New York, Inc. ("Con Edison") with the Commission on September 20, 2016. AGC respectfully requests that the Commission reject a provision in the JP that, if accepted by the Commission, would have adverse, unintended consequences with respect to the New York Independent System Operator Inc.'s ("NYISO") dispatch of electric generating facilities in the wholesale electricity market that take interruptible gas transportation service from Con Edison.

Specifically, Section H.2.c. of the JP provides that Con Edison will modify the balancing services provisions of its transportation service classifications for power generators (SC-9) and gas marketers (SC-20) to state that "[c]ashout prices and imbalance charges for all volumes above the first balancing tier (including any unauthorized use of gas during an OFO) will be considered penalty gas and noted as such in the tariff." Similarly, the joint proposal filed on September 7, 2016 in the gas rate cases involving The Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY) and KeySpan Gas East Corporation d/b/a National Grid (KEDLI) (collectively, "National Grid") proposes to redefine imbalance charges as penalties:

The Companies will modify the balancing provisions of their power generation transportation service classifications to make clear that any (i) surcharges to the daily price applied to a sale of gas to a customer as a result of an under delivery of gas, or (ii) discounts applied to the price credited to a customer for a sale of gas to the Companies as a result of an over delivery of gas, will be considered penalties (as such term is used in the New York

**Eastern Generation, LLC**

300 Atlantic Street, 5th Floor, Stamford, CT 06901 | T: 212.792.0800 / 203.614.0500 | F: 212.792.0899 / 203.614.0599

Independent System Operator tariff with respect to unauthorized use of gas).<sup>1</sup>

Con Edison offers balancing services to provide a means for customers to sell gas to Con Edison that they scheduled but did not use and to buy gas from Con Edison that they used but did not schedule. A surplus imbalance results when a gas transportation customer schedules too much gas. A deficiency imbalance results when a customer schedules too little gas. The sale and purchases of imbalances, known as cash-outs, are performed on a monthly and daily basis for generators. Under Con Edison's currently effective SC-9 tariff, net surplus and net deficiency imbalances up to 2% are not subject to a surcharge. Net surplus and net deficiency imbalances greater than 2% are subject to a surcharge, which increases as the imbalances increase such that a power generator pays 130% of the cost of gas for net deficiency imbalances greater than 10% and receives only 70% of the cost of gas for net surplus imbalances greater than 10%.<sup>2</sup>

Importantly, even net deficiency and net surplus imbalances greater than 10% are not deemed unauthorized use or penalty gas because only gas taken after Con Edison has notified the customer that it must reduce or discontinue service is considered unauthorized use or penalty gas. SC-9 states that Unauthorized Usage shall consist of:

- (a) all gas consumed by an Interruptible or Off-Peak Firm Customer in excess of 2 therms per hour during the hours of interruption when transportation is interrupted.
- (b) all gas consumed by a Power Generation Customer during a period when transportation is interrupted and any gas consumed in excess of the Daily Transportation Quantity, exclusive of the allowance for losses, on a day when the Company declares an OFO.<sup>3</sup>

The Con Edison and National Grid imbalance penalty proposals have nothing to do with reliability but instead everything to do with cost shifting between gas and electric customers. These proposals would deem all imbalance gas taken or sold beyond the 2% threshold to be penalty gas, even though there is no evidence in the record that imbalance gas causes any adverse reliability impacts on their gas systems. Deeming all imbalance gas over an arbitrarily tight threshold as "penalty" gas limits flexibility for generators, and fundamentally changes the definition of penalty gas. The implication of this change is to prohibit generators from recovering the costs of imbalance gas in their bids in the wholesale energy market. Indeed, as shown in the National Grid joint proposal, it is evident that the main purpose of deeming imbalance gas as penalty gas is to prevent generators from recovering their costs of imbalance gas through the NYISO's wholesale electricity markets.

---

<sup>1</sup> Cases 16-G-0058 et al., *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of KeySpan Gas East Corp. dba Brooklyn Union of L.I. for Gas Service*, Joint Proposal (Sept. 7, 2016), at 114–15.

<sup>2</sup> Con Edison PSC No. 9, Leaf 300.2.

<sup>3</sup> *Id.* at Leaf 302.

As demonstrated by the NYISO's Market Monitoring Unit ("MMU") in its Statement in Opposition filed in opposition to the National Grid joint proposal, the penalty gas provision would affect a generator's treatment under the NYISO tariff.<sup>4</sup> Under the NYISO tariff, "the ISO shall not permit charges for unauthorized natural gas use to be included as a component in the development of a Generator's reference levels and Market Parties shall not be eligible to recover costs associated with unauthorized natural gas use."<sup>5</sup> This provision was added to the NYISO tariff to ensure that a generator would switch fuel or not offer electricity if its gas consumption is an unauthorized use.<sup>6</sup> According to the MMU, however, the joint proposal provision "seems to acknowledge that the generator would be authorized to continue consuming natural gas, but that its electricity offer would exclude any resulting balancing charges."<sup>7</sup>

Deeming imbalance gas as penalty gas has the practical effect of making the NYISO tariff unjust and unreasonable because it will have the unintended consequence of actually increasing deviations from delivered quantities.<sup>8</sup> It is unduly punitive because it will prohibit generators from recovering reasonable imbalance charges under the NYISO's tariff, charges which the NYISO has allowed generators to recover under tariff for many years. The proposal redefines penalty gas in a way that was not contemplated when the NYISO recently modified its tariff to preclude recovery of the costs of penalty gas. The intent of this modification is to preclude recovery of costs of unauthorized gas that harms reliability, *e.g.*, unauthorized gas taken during an operational flow order when the system is stressed. There is no evidence in the record demonstrating any necessity to recharacterize imbalance gas as penalty gas for system reliability or to reduce costs to firm gas customers.

Further, the penalty gas proposal will likely increase customer costs and harmful air emissions. These provisions assume that a generator would accept balancing charges but not include them in its offer price. But, as the MMU demonstrates, the generator could also choose to not submit an offer or switch to their alternate fuel—generally #2 or #6 oil—a choice that will usually be more expensive and, in every event, increase air emissions.<sup>9</sup> "If the available supply of gas-fired generation is reduced by generators switching to more expensive fuels or not offering, it will lead to large increases in wholesale market prices, which will lead to higher costs for consumers."<sup>10</sup>

As demonstrated above, the proposal to redefine imbalance charges as penalties in the JP and elsewhere will increase wholesale electric rates, deny electric suppliers even a reasonable opportunity to recover their legitimate costs of procuring natural gas, and ultimately increase

---

<sup>4</sup> Cases 16-G-0058 et al., *supra*, Statement in Opposition of Potomac Economic, Ltd. (Sept. 19, 2016), at 4 ("MMU Statement in Opposition").

<sup>5</sup> NYISO Market Services Tariff § 23.3.1.4.6.2.1.

<sup>6</sup> MMU Statement in Opposition at 4.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 7.

<sup>10</sup> *Id.*

customer costs and harmful air emissions. Therefore, AGC respectfully urges the Commission to reject this concept here and anywhere else it is proposed.

Respectfully submitted,

*Liam Baker*

Liam Baker  
Vice President, Regulatory Affairs