

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on February 13, 2013

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Maureen F. Harris
James L. Larocca
Gregg C. Sayre

CASE 12-E-0381 - In the Matter of Deregulating Commercial
Submetering in All Service Territories and
Requiring Utilities to Provide Ready Access to
Bill Calculators for Use by All Electric
Customers.

ORDER AUTHORIZING COMMERCIAL SUBMETERING
AND REQUIRING RATE CAP BILL CALCULATOR

(Issued and Effective February 20, 2013)

BY THE COMMISSION:

INTRODUCTION

In recently revising our residential, electric submetering regulations, two issues arose that are related to submetering but which are not appropriately added to 16 NYCRR Part 96. They are: (1) whether to extend our practice of allowing commercial (i.e., non-residential) submetering to occur without Commission approval in Consolidated Edison Company of New York, Inc.'s (Con Edison) territory to all service territories in New York State; and (2) whether to require utilities to provide an on-line bill calculator available for use by residential submeterers and residential submetered end-users.

We adopt the first change and the second for only Con Edison, in whose service territory most electric residential

submetering exists. Allowing commercial electric submetering to proceed without Commission authorization State-wide removes impediments to landlords throughout New York State and expedites development of commercial premises. In requiring that Con Edison make available an on-line bill calculator, we are assisting submeterers to confirm the accuracy of their rate cap and assisting submetered residential end-users to discern if they are being billed at no higher than the rate cap.

On September 12, 2012, the Commission published in the New York State Register notice of its intention to decide whether to authorize commercial submetering without Commission authorization and the requirement of on-line bill calculators for use by residential submeterers and submetered residential end-users. The 45-day comment period ended on October 29, 2012. No party submitted comments on the proposal to allow commercial submetering.

Comments

Only Con Edison submitted comments applicable to the on-line bill calculator requirement. Specifically, Con Edison believes sufficient information is already being provided by the submeterers to submetered end-users to calculate an accurate bill. The Company expressed concern that a Con Edison-created on-line bill calculator would create confusion because submetered end-users are not Con Edison's customers and the calculator at the Con Edison website may lead some submetered end-users to think they are Con Edison customers. Con Edison suggests the requirement to provide an online calculator be submeterers' and not the utility's responsibility. If the Commission does order such a calculator, in its initial comments Con Edison asked that the Commission specify how the Company may recover its costs.

Deregulating Commercial Submetering

In 1979, after extensive hearings, we authorized commercial electric submetering conversions without the need for Commission approval in Con Edison's service territory.¹ While, in 1980, the Commission decided to extend such authorizations to submetering statewide by June 1, 1981, in a one-commissioner order, the Commission rescinded that decision on May 22, 1981, and "postponed the extension of liberalized submetering outside Con Edison's territory until we can again review the situation."²

We find at this time that commercial electric submetering in both conversions and new construction in all service territories in New York State may proceed without Commission authorization. The marketplace appears to dictate well the protocols a commercial submeterer must follow to retain commercial tenants. Moreover, the energy efficiency benefits of commercial submetering, including the application of time-of-use rates, where possible, should be encouraged. Notably, in this proceeding, not one commenter opposed the expansion of commercial submetering.

Therefore, to further streamline Department oversight of electric submetering and to encourage the expansion of commercial submetering, the energy efficiency benefits of which will inure to the public at large, we are facilitating the ability of commercial building owners to convert from electric master-metering to submetering and to build new construction with submetering for commercial tenants in all utility service territories.³ Conversions from direct metering to submetering in

¹ Case 26998 - Proceeding on Motion of the Commission as to Rent Inclusion and Submetering, Opinion 79-24, at 2.

² Case 26998, Untitled Order (issued and effective May 22, 1981).

³ We will continue the prohibition of gas submetering due to safety concerns. See Opinion 79-24, at 25.

commercial premises, as adopted in 1979, will be reviewed and considered upon a petition to the Commission.⁴

On-Line Bill Calculators

Accurate information upon which submetered residential tenants can rely in concluding that they are being billed in accordance with the submetering requirements (i.e. bills that are no higher than the distribution utility's residential direct metered rate), is vital to the integrity of the Commission's submetering program.⁵ A readily accessible rate cap calculator empowers tenants by providing them with the tools to confirm that their bills do not exceed the rate cap, and will also assist submeterers in issuing bills that conform with our requirements. It will also facilitate resolution of billing disputes by ensuring that the same information is available to both the submeterer and the submetered end-user.

Therefore, the Commission orders Con Edison, due to the large number of residential submeterers and submetering end-users in its service territory, to provide (within 60 days) an on-line bill calculator that can be used by both master-metered customers who submeter residential buildings and their submetered residential end-users so they may both calculate the applicable rate cap.⁶ The Company should consult with Staff in

⁴ See Opinion 79-24 at 19.

⁵ If further expansion of residential submetering occurs statewide, the Commission may order the development of similar calculators for other utilities, where warranted, in the future.

⁶ Con Edison may state at the web page where the bill calculator can be found that the submetering bill calculator is provided as a service to submeterers and their tenants for comparative purposes only and that Con Edison does not have a role in resolving submetered billing disputes.

the development of the program. The tool should enable the user, including customers paying time-of-use rates, to enter a billing period and the number of kWh of electricity used during that period, and should produce the bill that would have been rendered by Con Edison for a residential customer with the specified usage in the designated time period. Since filing its comments in this proceeding, Con Edison has agreed not to seek incremental rate recovery for the development, launching, and maintenance of the calculator.

The Commission orders:

1. On or before the sixtieth (60th) day after issuance of this order, on not less than 30 days notice, Central Hudson Gas and Electric Corporation, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc. and Rochester Gas and Electric Corporation shall file one or more proposed tariff amendments or riders, consistent with Ordering Clause 2, below, permitting (1) the purchase of electric service under the service classification that would be applicable if the service were not being resold and (2) resale of that service to non-residential tenants or customers on an individually metered basis, regardless of the tariff's present prohibition against such resale.

2. The tariff amendment or riders filed by each company pursuant to Ordering Clause 1 shall specify, expressly or by reference, that the submetering option established shall be available throughout the Company's service territory to non-residential customers.

3. Within (sixty) 60 days from the issuance of this order, Consolidated Edison Company of New York shall present to the Director of the Office of Consumer Policy a web-based calculator that is capable of providing the public ready access

to the rate cap identified in 16 NYCRR Part 96, based on usage and a billing period entered by the user.

4. The requirements of §66(12)(b) regarding newspaper publication of the filings directed in Clauses 1 and 2 shall be made.

5. The Secretary is authorized to extend any deadline set forth in this order.

6. Upon Con Edison's launch of a Department-reviewed residential submetering bill calculator as described herein, this proceeding shall be closed.

By the Commission,

(SIGNED)

JEFFREY C. COHEN
Acting Secretary