

Filed Session of Jan. 15, 1997
Case 96-E-0680
Approved as Recommended
and so Ordered
By the Commission

JOHN C. CRARY
Secretary

Issued & Effective Jan. 29, 1997
STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

November 18, 1996

TO: THE COMMISSION

FROM: CONSUMER SERVICES DIVISION

SUBJECT: CASE 96-E-0680 - Petition of Trump International Hotel and Tower Condominium to Submeter Electricity at One Central Park West, New York, New York, located in the Territory of Consolidated Edison Company of New York, Inc., filed in C 26998.

SUMMARY OF

RECOMMENDATION: It is recommended that the Commission approve the petition to submeter.

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I. THE APPLICATION

By letter dated July 25, 1996, Andrew Weiss, One Central Park West PT Associates Limited Partnership, One Central Park West, New York, New York 10023, requests permission to submeter electricity at One Central Park West, New York, New York 10023. One Central Park West is a former office building undergoing renovation and will be used for residential and hotel purposes, and two commercial units. The property will be known as Trump International Hotel and Tower Condominium. Upon completion of construction, it will include 168 hotel condominium units and 158 residential condominium apartments. The hotel units will be located on the third through seventeenth floors of the building. The hotel units include 100 units which may be used for short-term hotel occupancy and 68 units which may be used for

longer-term occupancy. The 158 residential condominium apartments, known as the tower units, will be situated on the 23rd through the 47th floors, plus penthouse floors 48 through 52.

II. COMMISSION APPROVAL REQUIRED

The Commission's rules require that submetering in new or renovated residential condominiums receive prior approval by the Commission. The rules provide that the application to submeter include evidence, such as an offering plan filed with the Attorney General, that the building will in fact be a condominium and that a rate cap, equivalent to the utility's residential rate for directly metered service, grievance procedures, and tenant protections are provided until control is assumed by the unit owners through the Board of Managers.

III. THE SUBMETERING PLAN

Each residential condominium unit and each hotel condominium unit in the building will be equipped with a metering device, located outside of the unit, that will measure and record the amount of electric consumption in kilowatthours for such unit. Such recorded usage will be relayed to a central computer, which will maintain appropriate records, as to both past and present usage for each unit. Records of electric consumption for each unit will be maintained for not less than 24 months.

A. BENEFITS OF SUBMETERING

The applicant states that submetering will reduce construction costs, provide lower energy costs, allow for more efficient building design and utilization of living space, and meet security needs in the building.

B. SUBMETERING RATES

The applicant states that the rates and charges to be paid by the unit owners for submetered electrical service will be based upon the actual cost of the energy consumed. The Condominium Board may also charge the unit owners for the actual cost of maintaining the system and providing a billing statement. The costs for such maintenance and billing are currently estimated to be five dollars per unit per month. The capital

cost of the equipment required for providing submetered electric service will not be passed on to the unit owners as part of the charges for electric service. In no event will the unit owners be charged an amount (including any charge for billing and maintenance costs) which exceeds the rate contemporaneously paid by customers who are served directly by Con Edison and who are in the service classification that would be applicable to the unit owners if the unit owners were served directly by Con Edison.

C. TENANT PROTECTION

The condominium offering plan, including the by-laws of the condominium, provides that the first Board of Managers (Condominium Board) will consist of three persons designated by the sponsor until the first annual meeting. The first annual meeting will be held on a date not earlier than ten nor later than thirty days following the sooner to occur of (a) the second anniversary of the first closing or (b) the closing of title to at least 50 percent in number and in aggregate common interest of all units, at which time, the unit owners will elect a new nine-member Board. During the Initial Control Period (defined as the period ending upon the sooner to occur of (a) five years after the first closing or (b) the closing of title to units representing 75 percent of all units) the sponsor will have the right to elect or designate up to five members of the Board. At least one-third of all Board members will be hotel unit owners.

The complaint procedures during the sponsor's control period provide that unit owners must first attempt to resolve any dispute with the Board of Managers, and if that fails, a complaint for grievance will be submitted to a grievance arbitrator and will be conducted in accordance with the rules of the American Arbitration Association. The arbitrator must provide a full and fair hearing within ten days of the filing of the complaint unless the unit owner requests a longer period to prepare his/her case. At the hearing, both sides may be represented by counsel or other designated person, produce witnesses, submit documentary evidence and cross-examine witnesses. The arbitrator must issue a written decision

specifying the reasons and evidence relied on within ten days of the hearing. Records on all such complaints and decisions will be maintained for at least three years.

D. TENANT NOTIFICATION

A section in the Condominium Offering Plan will serve to notify each prospective purchaser that the project is being submetered in lieu of Con Edison metering.

IV. DISCUSSION

This application to submeter meets the requirements of the rules adopted by the Commission for new or renovated residential condominiums. The application provides for a rate cap equivalent to the utility's rate for directly metered service, grievance procedures and tenant protections. A section in the offering plan provides the conditions for submetering and serves to notify each prospective purchaser that the building is being submetered in lieu of Con Edison metering.

The Condominium Offering Plan will be verification that the building will be a condominium. It was filed with the Attorney General's office, with a copy provided to the Commission.

V. RECOMMENDATION

The submetering proposal, as described in the sponsor's application appears to be adequate and reasonable. It is, therefore, recommended that the Commission approve the petition to submeter electricity at One Central Park West, New York, New York 10023.

Respectfully submitted,

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Principal Policy and Compliance
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Consumer Services Division

Reviewed by:

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Approved:

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