

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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 25-E-0072

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)
Case 25-G-0073

**INITIAL POST-HEARING BRIEF OF
NEW YORK ENERGY CONSUMERS COUNCIL, INC.**

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INTRODUCTION

Pursuant to the directive of the presiding Administrative Law Judges Tara A. Kersey, James A. Costello and Nicholas Planty (the "ALJs") at the completion of the evidentiary hearings in the above referenced cases on December 3, 2016, the New York Energy Consumers Council, Inc. ("NYECC") hereby offers its Initial Post-Hearing Brief in these cases to the ALJs.

The NYECC and its predecessor organizations¹ have represented the energy interests of commercial property owners and managers in New York City before State agencies for more than 70 years. NYECC also continues to represent hospitals, colleges, governmental agencies, cultural and financial institutions, industrials, housing cooperatives, and real estate organizations. NYECC's membership includes landmark members properties such as One World Trade Center, 7 World Trade Center, One Bryant Park and Rockefeller Center.

NYECC has done its best to abide by the ALJs directive on December 3, 2025 to limit briefs to 10 pages of content. Because of the page limitation, NYECC has sought not to repeat and include arguments it has made and/or made by other parties, and/or facts addressed elsewhere in the record whenever possible, but instead to focus and emphasize additional facts gleaned from the evidentiary hearing record and certain hearing exhibits in further support of NYECC's arguments that the entire Joint Proposal is in the public interest and that it be adopted as filed.

THERE IS NO EVIDENCE THAT THE JOINT PROPOSAL IS INCONSISTENT WITH THE COMMISSIONS'S REGULATIONS AND ALL CHARGES IN THE JOINT PROPOSAL ARE JUST, REASONABLE AND HELP ENSURE THAT THE PROVISION OF ELECTRIC AND GAS SERVICES WILL BE SAFE AND ADEQUATE FOR THE THREE-YEAR RATE PLAN

Initially, it is worth noting that Utilisave, LLC ("Utilisave") which became an active party to these two rate cases on or about March 24, 2025, and after filing party acknowledgements for Steven P. Knowlton and Tara A. DeBlasie on March 31, 2025, did not serve and file any Direct Testimony or any accompanying exhibits by the March 30, 2025 deadline, or any Rebuttal

¹The Owners' Committee on Electric Rates (OCER) and The New York Energy Buyers Forum (NYEBF).

Testimony or any accompanying exhibits in rebuttal by the June 24, 2025 deadline.²

Instead, UtiliSave filed the Testimony of Michael Steifman, Esq. for Utilisave, LLC in Opposition to Approval of the Joint Proposal on November 26, 2025. The purpose of this testimony is "[t]o advocate for the PSC to mandate that Con Ed be required to provide all the data and formulas related to each charge and component of a customer's bill, such that there is full transparency as to the method of formulation and calculation with provisioning of all bill inputs which are utilized to derive every billing component." (Tr.³ at 115).

UtiliSave's attorney, Mr. Steifman elected not to use any documents during his cross-examination of Con Edison. (Tr. at 144). During the hearing, UtiliSave focused on the reasons why Con Edison does not provide customers with the granular information for the gas cost factor, the MSC and the BTU factor. (Tr. 174-180). UtiliSave does not assert that the Company's failure to provide this granular information is a violation of the Commission's regulations, but opines that the Joint Proposal does not adequately consider the issue of bill transparency in order to provide ratepayers with sufficient information to understand all the charges on their bill and to permit ratepayers, should they wish to, to confirm the accuracy of their charges assessed by Con Edison for utility service (Tr. at 118).

Significantly, components of charges are often not included in utility tariffs.⁴ A factor of adjustment is not a charge under the Public Service Law, but rather a factor applied to costs in

²25-E-0072, 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 Service, Ruling on Party Status and Schedule, Issued March 10, 2025, at 3.

³(Tr. at __) is a reference to the Evidentiary Hearing Transcript held on December 3, 2025.

⁴15-E-0492 - In the Matter of the Rules and Regulations of the Public Service Commission, Contained in 16 NYCRR in Relation to Complaint Procedures- Appeal by Consolidated Edison Company of New York, Inc. of the Informal Decision Rendered in Favor of Grenadier Realty Corp.; Trump Village; Brown Harris Stevens; Bradley Apartments Inc.; Premier Associates; Phipps House Services; SCO of Family Services; Trump Corporation.(522921), Opinion, Issued and Effective March 17, 2017, at 15.

the determination of a charge.⁵ Con Edison's Monthly Adjustment Clause ("MAC"), which includes over forty components for which the exact costs are not included in the tariff, is an example of this.⁶ The additional information sought by UtiliSave fall into similar categories to that of the Company's MAC. What is important to customers is a clear indication of the charges that are used to determine bills.⁷ Consistent with its tariff, this information is available to customers on the Commission's website and the Company's website. (Tr. at 172-187). This provides transparency to customers, enabling decision-making, which is more important than the value of individual components.⁸

The Commission is specifically called upon to regulate electric, and gas rates to ensure that all charges are just, reasonable and designed to ensure that the provision of such services will be safe and adequate.⁹ The current Joint Proposal accomplishes these ends in these instant cases.

The Commission is free to entertain, ignore or assign whatever weight it deems appropriate to factors in setting utility rates, and Commission determinations of rates are not to be set aside unless they are without any rational basis or reasonable support in the record.¹⁰ The Joint Proposal satisfies these requirements in these cases.

In the instant Con Edison electric and gas rate cases, as in prior Con Edison rate cases, the Commission's Department of Public Service Staff and that of signatory and other parties utilize their expertise in assisting the Commission to determine Con Edison's rates. In the instant Con Edison electric and gas rate cases, the Joint Proposal's provisions are just and reasonable as agreed to by the signatory parties and succeed in attaining significant mitigation of large bill increases to customers in all service classes.

⁵ Id.

⁶ Id., fn. 12.

⁷ Id.

⁸ Id.

⁹ 13-E-0030, 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 Service, Order Approving Electric, Gas and Steam Rate Plans in Accord with Joint Proposal, Issued and Effective February 21, 2014, at 9, fn. 4, citing to Public Service Law §§ 65(1); 79(1).

¹⁰ Id. at 9, fn. 5, citing to Abrams v. Public Service Com., 67 N.Y.2d 205, 501 N.Y.S.2d 777, 492 N.E.2d 1193 (1986).

Accordingly, the collective evidence strongly indicates that UtiliSave has not demonstrated any sufficient reason not to adopt the Joint Proposal, either in whole or in part, and therefore, NYECC respectfully requests that the Administrative Law Judges recommend to the Commission that the Joint Proposal be adopted as filed in its entirety as in the public interest.

**THE JOINT PROPOSAL'S PROVISIONS ARE CONCERNED WITH MEETING
CUSTOMER ELECTRIC AND GAS DEMAND AND ARE NOT CONCERNED WITH
ELECTRIC AND GAS GENERATION SUPPLY AND THE FUNDING OF
INFRASTRUCTURE IS JUST, REASONABLE AND HELPS ENSURE THAT THE
PROVISION OF ELECTRIC AND GAS SERVICES WILL BE SAFE AND RELIABLE
FOR THE THREE-YEAR RATE PLAN**

No Direct Testimony was filed by the Independent Intervenors by the May 30, 2025 deadline and the Independent Intervenors did not have party status¹¹ at that time in either the Con Edison electric or gas cases herein. On June 24, 2025, the Independent Intervenors¹² collectively filed "Rebuttal" Testimony that appears directed to the Company and no other party. The Independent Intervenors "Rebuttal" Testimony does not explicitly state whose testimony it is specifically providing rebuttal against and does not rebut any testimony except for that of the Company.

Accordingly, the Independent Intervenors purported Rebuttal Testimony is arguably an untimely filing of Direct Testimony, which was due 26 days prior to the Rebuttal Testimony deadline of June 24, 2025.

At the December 3, 2025 evidentiary hearing, the Independent Intervenors sought to introduce issues and concerns on subject matter not relevant to and beyond the scope of the Joint Proposal in the instant proceedings. Specifically, the Independent Intervenors sought to introduce information that is not relevant to the Joint Proposal such as issues regarding energy generation and supply instead of issues that are relevant to the Joint Proposal, which pertain to demand. (Tr. 223-227, 233-234).

¹¹ Independent Intervenors were added to the party lists on June 5, 6, and 13.

¹² The Independent Intervenors' testimony provided as Rebuttal Testimony is attributed to Roger Caiazza, Richard Ellenbogen, Constantine Kontogiannis, and Francis Menton.

Accordingly, no evidentiary weight need be ascribed to the submissions of the Independent Intervenors which make arguments that do not materially concern the Joint Proposal. Since the collective evidence strongly indicates that the Independent Intervenors have not demonstrated any sufficient reason not to adopt the Joint Proposal, either in whole or in part, NYECC respectfully requests that the Administrative Law Judges recommend to the Commission that the Joint Proposal be adopted as filed in its entirety as in the public interest.

THE EXHIBIT MARKED AS 1236 FOR IDENTIFICATION IS INADMISSIBLE AS EVIDENCE BECAUSE IT IS NOT ACCOMPANIED BY AN ENGLISH TRANSLATION AND AN AFFIDAVIT BY THE TRANSLATOR STATING HIS QUALIFICATIONS AND THAT THE TRANSLATION IS ACCURATE AS REQUIRED BY CPLR 2101

The Exhibit marked as 1236 for identification at the evidentiary hearing is a Spanish language document. (Tr. at 82-83). NYECC objected to the absence of a translation of this document at the evidentiary hearing. (Tr. at 83-84). Where an affidavit or exhibit annexed to a paper served or filed is in a foreign language, it shall be accompanied by an English translation and an affidavit by the translator stating his qualifications and that the translation is accurate. (CPLR 2101.) Arache v. Isabella Geriatric Ctr., Inc., 2023 N.Y. Misc. LEXIS 15621. Any paper in a foreign language that is untranslated will not be considered by the court. (501 Fifth Ave. Co. v Alvona, 110 AD3d 494, 973 N.Y.S.2d 137 [1st Dept 2013].) Id. Here, as in the Arache case, no certified translation of the signed Spanish language document, or affidavit attesting to the translator's qualifications and the accuracy of the translation, was provided by the Independent Intervenors despite stating at the hearing that they would do so. (Tr. at 84-85). In fact, the translator has not been identified at all. Without the foregoing, the ALJs and the Commission cannot consider the Spanish language document marked for identification as Exhibit 1236.

Accordingly, Exhibit 1236 may not be admitted into the record of these proceedings as it constitutes inadmissible evidence.

CONCLUSION

The evidentiary record cited to herein and in the plethora of other marked exhibits of filings made by NYECC and the other parties in support of the Joint Proposal in these Con Edison

electric and gas cases definitively establishes that the Commission's guidelines for settlements have been satisfied.

Accordingly, for the foregoing reasons and the reasons set forth elsewhere in the evidentiary record, NYECC respectfully requests that the Administrative Law Judges in these Con Edison electric and gas rate cases recommend to the Commission that the Joint Proposal in its entirety is in the public interest and that it be adopted as filed.

Dated: White Plains, New York

December 12, 2025

Respectfully submitted,

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