

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
New York on July 3, 2001

COMMISSIONER PRESENT:

Thomas J. Dunleavy

CASE 94-E-0952 - In the Matter of Competitive Opportunities
Regarding Electric Service.

ORDER ADDRESSING PETITIONS FOR CLARIFICATION
AND/OR REHEARING AND ADJUSTING SBC BUDGETS

(Issued and Effective July 3, 2001)

BACKGROUND

On February 26, 2001, two petitions for clarification and/or rehearing were submitted in this proceeding regarding the Commission's January 26th Order,¹ which continued and expanded System Benefits Charge (SBC) programs.² Notice of the Commission's intention to act on these petitions was given in the March 28, 2001 New York State Register. The notice also stated that the Commission was considering other SBC program adjustments including additional funding for certain utility-operated low-income energy affordability programs, and adjustments to the utility annual collection and budget

¹ Case No. 94-E-0952, et al., In the Matter of Competitive Opportunities for Electric Service, Order Continuing and Expanding System Benefits Charge for Public Benefit Programs, (issued January 26, 2001).

² Natural Resources Defense Council and PACE Energy Project (NRDC/PACE) jointly opposed the petitions, arguing that they merely seek to lower SBC collections over the next five years and do not present new factual or legal evidence upon which the Commission could or should modify its January 26th Order.

allocations to account for differing rate cycles and collection periods and to account for additional exempt negotiated rate and New York Power Authority (NYPA) customers.

PETITIONS FOR CLARIFICATION AND/OR REHEARING

MI's Petition

The Commission determined in its January 26th Order that each utility's share of the annual SBC collection responsibilities would be in proportion to its respective total electric operating revenues for 1999. The chart set forth in Appendix A, attached hereto, displays each utility's obligation. In its petition, Multiple Intervenors (MI) argues that prior to apportioning SBC collection responsibilities, the amount of each utility's total electric operating revenues for 1999 should be adjusted to exclude utility revenues from New York Power Authority (NYPA) sales and sales to certain negotiated rate customers that are contractually exempted from making contributions to the SBC fund. MI also requests that each utility's annual SBC collection responsibility not be set for all years based upon historical 1999 data, but be recalculated over time using updated revenue figures, so that varying sales trends over time, especially in upstate versus downstate service territories, not render any utility's collection share inequitable with respect to its most recent electric sales revenues.

Discussion

No reliable source of NYPA-associated sales revenue data, uniformly defined for all six affected electric utilities, exists. Nor is there an accurate, workable method to cleanly net-out revenues from electric sales to only those negotiated rate customers not paying into the SBC fund without conducting audits into contract specifics, the identities of such customers

and their purchased amounts. Moreover, netting out such sales would create a perverse incentive for utilities to increase their negotiated rate contracts since doing so would shift costs onto the ratepayers of other utilities. Due to a lack of usable data and to prevent financial responsibilities for this program from being shifted from a utility's own customers to those of other utilities, we must reject MI's request. For the sake of administrative ease and certainty as to expectations, five years is not an unreasonably long period of time to lock-in SBC collection responsibilities. The increased accuracy gained by updating individual collection shares over time, a few percent at most, does not justify multiple recalculations of the respective shares for all utilities. Accordingly, MI's petition will be rejected.

Con Edison/O&R's Petition

In its petition, Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc. (jointly, Con Edison/O&R) argue that SBC collections made during the first half of 2006, characterized as being made in order to recoup pre-2001 SBC expenses, should not be made at the increased collection rates specified in the January 26th Order, but should instead be taken at the original, pre-2001 SBC collection rates. Con Edison/O&R also asks that the Commission clarify its January 26th Order such that Con Edison's payments for SBC purposes "be consistent with the terms of Con Edison's Commission-approved electric restructuring settlement agreement."

Discussion

SBC collections made during the first six months of 2006 are not intended to recoup 2001 SBC expenses. The Con Edison/O&R characterization of such collections is incorrect. All 2001 expenses will be recouped in 2001. Rather, SBC collections taken in 2006 or at any time henceforth are part of

an integrated SBC program which was expanded by the January 26th Order. Collections were extended through June 2006 to spread out the expenses of the expanded program so as to avoid what had been originally proposed, a doubling up of collections in the first half of 2001. The Con Edison/O&R arguments about being consistent with the terms of Con Edison's electric rate and restructuring plan appear to be out of date. The January 26th Order is consistent with relevant provisions of Con Edison's year 2000 rate plan, which allows Con Edison to collect and recover the full amount of SBC funding through a new separate SBC charge.³ For these reasons, we reject the arguments made in the Con Edison/O&R petition.

SBC PROGRAM ADJUSTMENTS

The following minor SBC program budget adjustments result from unresolved issues at the time of the January 26th Order. The utility collection tables are updated as well to track the SBC program budget adjustments.

Low-Income Programs

Niagara Mohawk Power Corporation's (NMPC) low-income program was previously funded through the first eight months of 2003, consistent with its approved rate plan. The SBC program budget will be adjusted to establish placeholders of \$709,860 for the final four months of calendar year 2003, \$2.5 million for each of calendar years 2004 and 2005, and \$1.25 million for the first half of calendar year 2006, to allow for the possible continuation of this program beyond the current rate plan.

³ Cases 00-M-0095 et al., Consolidated Edison Company of New York and Northeast Utilities - Merger and Rate Plan, Opinion and Order Adopting Terms of Settlement, Subject to Modifications, Opinion No. 00-14 (issued November 30, 2000), Appendix, p.23.

New York State Electric & Gas Corporation's (NYSEG) low-income energy affordability program will be funded through March 2, 2003. NYSEG is allocated \$2.5 million for each of 2001 and 2002 program year operations and \$416,666 for the first two months of 2003. Placeholders shall be established of \$2,083,334 in SBC low-income funding for the balance of calendar year 2003, \$2.5 million for each of calendar years 2004 and 2005, and \$1.25 million for the first half of calendar year 2006. NYSEG requested that sufficient funds be dedicated annually to ensure the continuation of its low-income energy affordability program for as long as the SBC remains in existence. Many letters in support of NYSEG's program were received. While the support expressed by various parties for continued SBC funding of NYSEG's program is noteworthy, the request that funding of the program be approved beyond the March 2, 2003 date is premature.

The Commission will require that detailed evaluations of the SBC-supported portion of Niagara Mohawk's and NYSEG's low-income customer assistance programs, and of the New York State Energy Research and Development Authority's (NYSERDA) low-income program, be submitted for review before the Commission makes a determination regarding funding levels for those programs beyond the dates specified above. Staff will work with those utilities and with NYSERDA to assist in the design of the evaluations.

As a result of these adjustments, the table of approved SBC funding levels for utility-run programs that appeared on page 14 of the January 26th Order is modified as set forth in Appendix B attached hereto. As a result of the increased allocation to utility-run programs, the table of SBC amounts allocated to the Energy Smart statewide program through June 30, 2006, previously presented on page 20 of the January 26th Order, is revised as set forth in Appendix C attached

hereto. Each utility's individual annual transfer payment to NYSERDA is revised as set forth in Appendix D attached hereto. Finally, the table of illustrative collection rates previously presented on page 25 of the January 26th Order is hereby revised as set forth in Appendix E attached hereto.

PUBLIC NOTICE

The Commission's potential actions, taken herein, were noticed in the March 28, 2001 New York State Register. The public comment period ended May 14, 2001. The comments received included NRDC/PACE's comments in opposition to the petitions, and letters in support of NYSEG's low-income program.

It is ordered:

1. The February 26, 2001 Petition for Clarification of Consolidated Edison Company of New York, Inc., and its affiliate, Orange and Rockland Utilities, Inc., is denied in its entirety.

2. The February 26, 2001 Petition for Clarification and/or Rehearing of Multiple Intervenors is denied in its entirety.

3. The SBC low-income energy affordability budgets and reserves for Niagara Mohawk Power Corporation and New York State Electric & Gas Corporation, as described herein, are hereby adopted.

4. The corresponding adjustments to funding for low-income energy affordability programs administered by the New York State Energy Research and Development Authority, as described herein, are hereby adopted. These budget adjustments should be included in the SBC Energy Smart 2001-06 Operating Plan, which is to be refiled with the New York State Department of Public Service.

5. Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Niagara Mohawk Power Corporation, New York State Electric & Gas Corporation, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation shall annually transfer the amounts shown in Appendix D of this order to NYSERDA, and set a schedule of payments with NYSERDA, which shall be no less frequent than quarterly.

6. Niagara Mohawk Power Corporation and New York State Electric & Gas Corporation shall submit evaluations of their SBC-funded low-income energy affordability programs through June 30, 2002, to the Secretary by September 1, 2002. At the same time, NYSERDA will submit an evaluation of its statewide program for low-income customers.

7. SBC funds retained by the utilities shall be used only for the SBC programs approved by this order, and by the Orders issued in this proceeding on January 26 and April 17, 2001. Any unexpended funds shall be turned over to, and be administered by, NYSERDA for SBC programs, unless the utility's individual rate and restructuring plan provides for some other specific disposition of such unexpended funds. Upon the expiration of any such rate plans, any approved SBC funds not expended on those programs shall be transferred to NYSERDA.

8. This proceeding is continued.

(SIGNED)

Commissioner

SBC UTILITIES' ANNUAL COLLECTION SHARES

SBC Utility	1999 Total El. Operat'g Rev, \$	% Share	Collection Amount, \$
CH	427,808,497	3.50	5,252,140
Con Edison	5,685,087,692	46.53	69,794,960
NYSEG	1,763,191,049	14.43	21,646,429
NMPC	3,247,586,320	26.58	39,870,125
O&R	395,701,263	3.24	4,857,964
RG&E	698,744,633	5.72	8,578,382
Total	12,218,119,454	100.00	150,000,000

UPDATED FUNDING LEVELS FOR UTILITY SBC PROGRAMS, 2001-2006

<u>Utility</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>Half 2006</u>
CH	\$0	\$0	\$0	\$0	\$0	\$0
Con Edison (EE)	\$1,421,000	\$0	\$0	\$0	\$0	\$0
NYSEG (EE)	\$673,384	\$605,655	\$614,837	\$634,504	\$644,856	\$322,428
NYSEG (LI)	\$2,500,000	\$2,500,000	\$416,666	\$0	\$0	\$0
NYSEG (LI Reserve)	\$0	\$0	\$2,083,334	\$2,500,000	\$2,500,000	\$1,250,000
NMPC (EE)	\$230,700	\$240,400	\$250,800	\$261,800	\$273,300	\$136,650
NMPC (LI)	\$2,530,000	\$2,607,000	\$1,790,140	\$0	\$0	\$0
NMPC (LI Reserve)	\$0	\$0	\$709,860	\$2,500,000	\$2,500,000	\$1,250,000
O&R (EE)	\$28,660	\$35,662	\$151,527	\$163,156	\$166,923	\$83,462
RG&E (EE)	\$4,350,000	\$4,300,000	\$4,300,000	\$4,300,000	\$4,300,000	\$2,150,000
RG&E (LI)	\$50,000	\$0	\$0	\$0	\$0	\$0
RG&E (RD)	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$100,000
TOTALS	\$11,983,744	\$10,488,717	\$10,517,164	\$10,559,460	\$10,585,079	\$5,292,540

Note: "EE" = Energy Efficiency, "LI" = Low-Income Energy Affordability, "RD" = R&D, CH = Central Hudson Gas and Electric Corporation, Con Edison = Consolidated Edison Company of New York, Inc., O&R = Orange and Rockland Utilities, Inc., and RG&E = Rochester Gas & Electric Corporation.

GRAND TOTAL: \$59,426,704

In the above table, all NYSEG and NMPC low-income reserves beyond March 2, 2003, and beyond August 31, 2003, respectively, are tentative amounts requiring specific Commission approval before they are used by NYSEG and NMPC. The above \$22,500,000 in additional monies for utility-run low-income programs must be reallocated from NYSERDA's Energy Smart low-income program, on a year-by-year subtraction basis, which accordingly reduces statewide Energy Smart low-income program funding to \$118,760,140. These revised annual and total amounts should be reflected in the SBC Energy Smart 2001-2006 Operating Plan, which NYSERDA will be filing shortly.

REVISED SBC ENERGY SMART FUNDING LEVELS, 2001-2006

<u>Program</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>Half 2006</u>	<u>Total</u>
Enhanced Peak Load Reduction	\$10,000,000	\$0	\$0	\$0	\$0	\$0	\$10,000,000
Peak Load, Energy Eff., & O&E	\$71,714,569	\$79,362,592	\$79,227,145	\$79,184,849	\$79,159,230	\$39,579,615	\$428,228,000
R&D	\$24,363,656	\$26,282,555	\$26,282,555	\$26,282,555	\$26,282,555	\$13,141,280	\$142,635,156
Low Income	\$19,947,121	\$21,875,226	\$21,982,226	\$21,982,226	\$21,982,226	\$10,991,115	\$118,760,140
Environm'l Disclosure	\$500,000	\$0	\$0	\$0	\$0	\$0	\$500,000
Supplemental Set Aside	\$11,490,909	\$11,990,909	\$11,990,909	\$11,990,909	\$11,990,909	\$5,995,455	\$65,450,000
Total	\$138,016,255	\$139,511,282	\$139,482,835	\$139,440,539	\$139,414,920	\$69,707,465	\$765,573,296

SBC UTILITIES' ANNUAL TRANSFER PAYMENTS TO NYSERDA

<u>Utility</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>Half 2006</u>
CH	\$5,250,000	\$5,250,000	\$5,250,000	\$5,250,000	\$5,250,000	\$2,625,000
Con Edison	\$68,374,000	\$69,795,000	\$69,795,000	\$69,795,000	\$69,795,000	\$34,897,500
NYSEG	\$18,471,615	\$18,539,345	\$18,530,163	\$18,510,496	\$18,500,144	\$9,250,072
NMPC	\$37,109,300	\$37,022,600	\$37,119,200	\$37,108,200	\$37,096,7000	\$18,548,350
O&R	\$4,831,340	\$4,824,337	\$4,708,472	\$4,696,843	\$4,693,076	\$2,346,543
RG&E	\$3,980,000	\$4,080,000	\$4,080,000	\$4,080,000	\$4,080,000	\$2,040,000
Total	\$138,016,255	\$139,511,282	\$139,482,835	\$139,440,539	\$139,414,920	\$69,707,465

GRAND TOTAL: \$765,573,296

UPDATED ILLUSTRATIVE COLLECTION RATES, MILLS/kWh

UTILITY	1/26/01 Collection Rate	Updated Collection Rate
CH	1.11	(unchanged)
Con Edison	2.07	(unchanged)
NYSEG	1.58	1.61
NMPC	1.53	1.47
O&R	1.34	unchanged)
RG&E	1.32	1.51

Each utility is annually to calculate collection rates for each ensuing year, using its best estimates of SBC collection-affected sales. (The above illustrative collection rates are unlikely to exactly match those to be calculated by the utilities.)