

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

Case 25-E-0072 - Proceeding on Motion of the Commission as to Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric Service

Case 25-G-0073 - Proceeding on Motion of the Commission as to Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Gas Service

**JOINT STATEMENT OF THE OFFICES OF NEW YORK STATE ASSEMBLY MEMBERS
BURDICK, LEVENBERG & SHIMSKY AND THE COUNTY OF WESTCHESTER**

November 25, 2025

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STATEMENT IN OPPOSITION OF THE JOINT PROPOSAL

In accordance with the Email Ruling on Process issued by Administrative Law Judges James A. Costello, Tara A. Kersey and Nicholas Planty on November 6, 2025, the Offices of New York State Assembly Members Burdick, Levenberg & Shimsky and the County of Westchester (collectively, the “Westchester Parties”) hereby submit to the Public Service Commission (the “Commission”) this statement in opposition to the Joint Proposal that Consolidated Edison Company of New York, Inc. (“Con Edison” or the “Company”) filed on November 5, 2025 (the “Joint Proposal” or “JP”). As a point of distinction, the Westchester Parties are separate from and do not include the Westchester Municipal Consortium (“WMC”), which is a consortium of municipalities within the county and will be submitting its own statement on the Joint Proposal.

We joined this rate case as intervenors because our constituents are already struggling to pay their utility bills and cannot afford the rate hikes proposed by Con Edison in their initial filing. We engaged in the settlement discussions in good faith, hoping that our participation in the process would lead to an outcome that prioritized affordability. Unfortunately, despite our collective efforts, we believe that the Joint Proposal does not meet the requirements as set forth in the Commission’s Settlement Guidelines. Specifically, we do not believe the Joint Proposal is protective of the interests of the ratepayers or consistent with the environmental, social, and economic policies of the state, nor do we believe that an adequate balance between these interests and fairness to investors was struck in the Joint Proposal. Therefore, the Westchester Parties, on behalf of our constituents, strongly oppose the Joint Proposal and encourage the Public Service Commission to reject it.

1. Supported Items in the Joint Proposal

Though we oppose the Joint Proposal as a whole, there are provisions within it that we support and wish to highlight.

a. Climate Leadership and Community Protection Act (“CLCPA”)

The Joint Proposal lays out provisions that assist in meeting the state’s climate goals, as spelled out by the CLCPA. Specifically, the continuation and elimination of caps for the price guarantee for customers in Service Class Rate 1-IV, as detailed on page 54 of the Joint Proposal, will help make it more affordable for residential customers to transition to clean heating technologies like air source and ground source heat pumps. Improved education and outreach associated with these beneficial rates will help make customers aware of their options, ensuring the clean energy transition is affordable for average ratepayers. Earning Adjustment Mechanisms (“EAMs”) were included to incentivize the Company to improve performance as it relates to electric interconnections for buildings and transportation projects. As detailed in the Direct Testimony of Assemblymember Dana Levenberg, Con Edison was woefully behind on completing timely interconnection and upgrade requests across the service territory. The EAMs in the Joint Proposal aim to remedy this data point. The disadvantaged communities reporting and

greenhouse gas emissions reporting requirements detailed in section P of the Joint Proposal, “Clean Energy Transition,” will provide useful information to the Company, Commission and Department Staff, elected officials, advocacy groups, and other stakeholders that can be used in future rate cases or proceedings to improve the state’s clean energy transition. There is also an added layer of accountability on the Company associated with enhanced reporting – it is our responsibility to ensure that the Company is living up to its promises to do its part to ensure an efficient, affordable, and prompt transition to renewable energy.

b. Customer Protections

A number of customer protections were included in the Joint Proposal, which we support. These include enhanced language access for customers whose primary language is not English, additional provisions related to customer terminations, identification of electric heating customers, weather-related customer protections, certain fee waivers for customers, and enhanced education and outreach associated with the Energy Affordability Program. We represent socioeconomically and linguistically diverse constituencies, and we support these enhanced customer provisions detailed in section M of the Joint Proposal, “Customer Operations Provisions.”

2. Opposed Items in the Joint Proposal

a. The Rates Are Still Too High For Our Constituents, Who Are Already Struggling

Under the Joint Proposal, the delivery portion of customers’ Con Edison electric bills will increase annually by 4.3%, 5.0% and 3.3% for 2026, 2027 and 2028, respectively, compounded for each of those three years. For gas, the percentage will decrease by 0.3% in 2026 and then increase in 2027 by 7.2% and 3.7% in 2028. Given that on a large number of customer bills the delivery charges are up to three times the amount of supply charges, and that the Commission only has authority to approve requests to increase delivery rates because supply is determined by market forces, we think it is more salient to express rate increases as a percentage of delivery charges rather than the total bill. In addition, this rate hike comes immediately after Con Edison’s prior rate request granted by the Commission in 2023 (Cases 22-E-0064 and 22-G-0065), which authorized compounding increases for 2023, 2024 and 2025 of approximately 6% for electricity and approximately 9% for gas.

We feel that the increase in each of the three years should be close to the gross domestic product (“GDP”) deflator. This would not be a rate freeze. It would provide steady revenue requirement increases for the Company over the next three years that balance the need of the Company for capital with the ratepayers’ ability to pay. The JP’s increases are far beyond that of the GDP deflator. When we look through the lens of affordability, these increases are still far too steep for our constituents. We moved the needle, but not enough to sign on.

b. NYC Property Taxes Burden Westchester County Ratepayers

As submitted in testimony by Westchester County, Westchester residents disproportionately bear the brunt of the high property taxes on Con Ed infrastructure that NYC imposes on the Company. Though Westchester is just 10% of the service area, with much less taxable infrastructure within the boundaries of the County, our constituents are, in effect, paying taxes that should be borne by NYC taxpayers.

According to statements made by the Company¹, Con Edison is taxed on both the tangible property in the public right of way, as well as the value of the franchise right, and the authority or permission to occupy such public spaces. Additionally, Con Edison is required to pay New York City hundreds of millions of dollars in other special fees that come in the form of revocable consent fees, public interference construction costs, street opening permitting, to name a few. (*Id.*) These NYC taxes and fees are then passed on to customers across Con Edison's service territory, resulting in significantly higher utility bills for ratepayers.

New York City property taxes play a large role in driving bills higher for all Con Ed ratepayers. Con Edison customers in Westchester and NYC, as a class, are the largest property taxpayer in the City and, according to the Company, the NYC property taxes have increased steadily from roughly \$500M in the year 2000 to almost \$2.5B in 2023 – more than a 300% increase. (*Id.*) Through these taxes, fees, and other special assessments, the New York City government coffer is the largest financial beneficiary of the NYC energy system. (*Id.*)

Con Edison does not distinguish between the costs embedded in the revenue requirement of different jurisdictions (*i.e.*, New York City and Westchester). NYC property taxes are passed through to all Con Edison ratepayers regardless of whether they reside within or outside of New York City. As a result, Westchester County ratepayers are subsidizing New York City.

c. Network/Non-Network Cost of Service Study

As explained in testimony submitted by WMC, Westchester is primarily served by a non-network distribution system, which is inherently less reliable, as compared to Manhattan, which uses a far more robust underground network system. Network service is extremely reliable, but also extremely expensive to construct. While we appreciate that the Company has agreed to prepare an informational analysis to distinguish embedded cost of service between non-network and network facilities (See JP at page 52), any benefit to non-network ratepayers is speculative, at best.

¹ <https://www.coned.com/en/about-us/media-center/news/2022/11-15/regarding-the-recommendations-of-the-advisory-commission-on-property-tax-reform>

d. AI Data Centers

Artificial Intelligence (AI) data centers are energy-intensive, and the need for and number of such mega centers is projected to grow exponentially. Ratepayers should be protected from the impact of investments needed to serve their needs. Given the massive energy requirements associated with the rapid explosion of AI, a provision should be added to the Joint Proposal to support a generic proceeding to analyze the impact of AI Data Centers on Con Edison's operations and cost, and to determine if a separate rate classification should be adopted for AI data centers. This was not included in the JP.

e. Return on Equity

In their initial filing, the Company requested a return on equity ("ROE") of 10.1%. Given the Company's strong access to capital on favorable terms and strong investor confidence, a much lower ROE would be appropriate under current market conditions. There are precedents for such action. In Case 17-E-0459, the Commission approved an 8.8% ROE for Central Hudson Gas & Electric Corporation. Similarly, in Case 20-E-0380, Niagara Mohawk Power Corporation (National Grid) was authorized a 9.0% ROE. Other cases with ROEs below 9.0% include the following: 8.80% under Case 19-E-0065 and 19-G-0066; 8.80% under Case 19-E-0378 and 19-G-0379; 8.80% under Case 20-G-0101; 8.80% under Case 20-G-0381; 8.80% under Case 17-E-0459 and 17-G-0460; and 8.70% under Case 16-G-0257. In the current New York State Electric and Gas (NYSEG) and Rochester Gas and Electric (RG&E) rate cases 25-E-0375, 25-G-0378, 25-E-0379 and 25-G-0380, Andrew Hale, an Associate Financial Analyst with the Department of Public Service (DPS), recommends an ROE of 9% in testimony for DPS.

In addition to the Company's strong access to capital markets on favorable terms, the Company's shareholders have seen strong returns on their investments; as of 2025, Con Edison has increased its dividend annually for 51 consecutive years, and over the long term, shareholders have enjoyed solid total returns.

The JP has the ROE set at 9.4%. We find this unacceptable.

Conclusion - The Commission Should Not Approve The Joint Proposal

Though the Department of Public Service and some other intervenors have signed the Joint Proposal, the Commission is not required to approve the proposal and implement new rates. The mandate of the Commission is to ensure safe, reliable, and affordable utility services for consumers while protecting the environment, as spelled out in the Settlement Guidelines. In this economic climate, the proposed rate increases are simply not affordable. Further, ratepayers who reside in Westchester County are paying more than their fair share. We do not believe the Joint Proposal is protective of the interests of the ratepayers or consistent with the environmental,

social, and economic policies of the state, nor do we believe that an adequate balance between these interests and fairness to investors was struck in the Joint Proposal. Therefore, the Westchester Parties, on behalf of our constituents, strongly oppose the Joint Proposal and encourage the Public Service Commission to reject it.

Respectfully submitted,



Assemblymember

93rd District



Assemblymember

95th District



Chief of Staff,
Assemblymember
MaryJane Shimsky

92nd District



Kenneth W. Jenkins
Westchester County
Executive

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