BEFORE THE NEW YORK STATE
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission in Regard to Gas Planning Procedures	:	**Case 20-G-0131**

CON EDISON AND ORANGE AND ROCKLAND COMMENTS ON STAFF'S PROPOSED MODIFICATIONS TO 16 NYCRR PART 230

I. Introduction

Public Service Commission ("Commission") regulations in 16 NYCRR Part 230 that incentivize more gas usage are outdated and no longer aligned with important New York State clean energy policy goals. These provisions were adopted at a time when state policy actively encouraged increased gas usage and new customer connections. Today, state and local laws, as well as orders issued by the Commission itself, seek to reduce or eliminate gas usage by promoting alternatives to gas and discouraging new gas connections.

On July 16, 2024, Department of Public Service staff ("Staff") filed the "Staff Straw Proposal Regarding Development Modification of 16 NYCRR Part 230" ("Straw Proposal") in this proceeding.[1] Stakeholders, including Consolidated Edison Company of New York, Inc. ("Con Edison") and Orange and Rockland Utilities, Inc. ("Orange and Rockland") (collectively referred to as the "Companies") filed comments on the Staff Proposal.

Effective December 19, 2026, the Public Service Law ("PSL") will require that an applicant for residential gas service pay the material and installation costs relating to the facilities that must be

[1] Case 20-G-0131, *Proceeding on Motion of the Commission in Regard to Gas Planning Procedures*, Staff Straw Proposal Regarding Modification of 16 NYCRR Part 230 (issued July 16, 2024).

installed to provide service to that applicant.[2]

On May 19, 2026, Staff filed the "Draft Revisions to Part 230 (100-Foot Rule)" ("Draft Revisions") in this proceeding. The proposed modifications to the language in 16 NYCRR Part 230 are based on the Straw Proposal, and they reflect both the stakeholder input and the recent amendment to the PSL.

The Straw Proposal recognized the disconnect between certain provisions in Part 230 and current state policy. In their comments on the Straw Proposal, the Companies acknowledged that the recommendations included in the Staff Straw Proposal were a necessary step to better align Commission regulations with state policy. The Companies also noted that the Straw Proposal was consistent with the Companies' Clean Energy Commitment[3] and advocacy related to gas transition issues before state and local government.

The Companies offer these comments in accordance with the May 19, 2026, Notice Soliciting Comments issued in this proceeding. The Companies generally support the Draft Revisions for many of the same reasons the Companies supported the Straw Proposal. Nevertheless, and as more fully explained below, the Companies propose certain modifications of the Draft Revisions to mitigate costs, provide greater clarity for customers, and address potential administrative burdens.

II. Companies' Proposed Modifications to Draft Revisions

A. Section 230.2

Modification #1 (Section 230.2(c)):
Residential applicant. If an applicant in a building which is not supplied with gas requests residential service, the utility shall furnish, place and construct all mains, service lines, service connections and appurtenant facilities necessary to render the service requested. The cost and expense of such extension facilities shall be borne entirely by the applicant and include:(proposed additions in red)

[2] PSL §31(4-a), as adopted by 2025 Laws of N.Y. Ch. 709 and 2026 Laws of N.Y. Ch. 101.
[3] https://www.coned.com/en/our-energy-future/our-energy-vision/our-energy-future-commitment

This modification clarifies that the Draft Revisions apply to new applicants who are not connected to the gas distribution system. The Draft Revisions do not apply to existing customers (*i.e.*, repairs/replacement of infrastructure to existing customers or augmenting service to existing customers). Additionally, this modified language aligns and is consistent with the pending changes to PSL §31 (4-a):

> 4-a. [Eff. Dec. 19, 2026.] In the case of any application for gas service **to a building which is not supplied with gas**, a utility corporation or municipality shall be obligated to provide gas service to such building, provided however, that the commission shall require applicants for gas service to such building to pay or agree in writing to pay material and installation costs relating to the pipe or other facilities to be installed to enable service to the applicant.[4] (emphasis added)

Modification #2 (Section 230.2 (c)(1)):
an estimate based on the average ~~the~~ material and installation costs relating to all main, service line, service connections, and appurtenant facilities; and (proposed additions in red; deletions in strikethrough)

This modification allows utilities to continue the current practice of charging customers for gas connections based on an estimate of average material and installation costs across a utility service territory or portion of their service territory. This practice eliminates the administrative burden (and associated costs) of seeking to recover from customers additional costs for projects that exceed initial estimates. This approach also provides customers with one upfront fixed price so they can reasonably consider and plan for the payment of the proposed gas connection. Equipment such as natural gas detectors that communicate with the utility shall not be included in the individual applicant's cost (*i.e.*, will be excluded from definition of appurtenant facility) as there is a systemwide benefit for their installation, and in the case of Con Edison, are mandatory to obtain or maintain gas service regardless of service classification

[4] Public Service Law §31(4-a).

B. Section 230.3

<u>Modification #3 (Section 230.3(b))</u>:
The ~~utility~~ applicant may petition the commission to bill costs through a surcharge for purposes of economic development or affordable housing development. If the commission ~~authorizes~~ directs the utility to impose a surcharge, such surcharge shall be subject to the following provisions. (proposed additions in red; deletions in strikethrough)

Any petitions to establish eligibility for a surcharge under the Draft Revisions should be prepared and filed by applicants instead of utilities. The applicants, rather than the utilities, are best positioned to establish whether the applicant's proposed connection will serve an economic development or affordable housing purpose. Applicants are more knowledgeable than utilities regarding their individual circumstances and applicants possess any necessary information and documentation to demonstrate eligibility.

It is unclear what, if any, objective criteria utilities are expected to apply to determine eligibility for the surcharge. In the absence of such criteria and to avoid violating prohibitions on treating similarly situated customers differently, utilities will be forced to submit these petitions on behalf of <u>all</u> customers who request them, whether they qualify or not. Utility resources should not be expended on gathering information from each individual applicant, drafting, and filing petitions for applicants who may or may not satisfy the economic development or affordable housing purpose.

III. Conclusion

While the Companies generally support the Draft Revisions, the Companies respectfully urge the Commission to adopt the Companies' proposed modifications for the reasons set forth above.

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Respectfully submitted,

CONSOLIDATED EDISON
COMPANY OF NEW YORK, INC.
AND
ORANGE AND ROCKLAND
UTILITIES, INC.

By its Attorney

/s/ Enver Acevedo
Enver Acevedo

4 Irving Place
Room 18-835
New York, NY 10003
Tel: (212) 460-3762
acevedoe@coned.com