STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Petition of Consolidated Edison Company	**)**	
of New York, Inc.	**)**	**Case 17-E-**

PETITION OF CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. REGARDING KENNEDY AIRPORT MICROGRID PROJECT

In the REV Proceeding, the Commission initiated an ambitious program for the modernization of the retail electric industry.[1] Among other things, the Commission recognized the need to integrate distributed energy resources into the grid and to create new opportunities for utilities and customers to work together to enhance reliability and resiliency.[2] The Commission encouraged utilities to explore the customer side of the grid—"an enormous and largely untapped resource"[3]—and to enter into "cooperative and productive arrangements" that would allow them to defer or cancel traditional projects.[4] The Commission also stated that utilities must evolve and find new ways to create value for customers.[5]

[1] Case 14-M-0101, *Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision* ("REV Proceeding"), Order Adopting Regulatory Policy Framework and Implementation Plan (issued Feb. 26, 2015) at pp. 2-3 (noting that "[t]he regulatory initiative launched in this proceeding, Reforming the Energy Vision (REV), aims to reorient both the electric industry and rate making paradigm toward a consumer-centered approach that harnesses technology and markets," and that "[t]he goals of REV are ambitious.") ("REV Framework Order").

[2] *See, e.g., id*. at 40-41 ("Under the policy and regulatory principles of REV, DER [a distributed energy resource] becomes a tool to reduce system investment needs….Utilities will have both the obligation and the incentive to support use of DER as an instrument that will help fulfill their obligations to end use customers while supporting the economic vitality of their new business model."); REV Proceeding, Order Adopting A Ratemaking and Utility Revenue Model Policy Framework (issued May 19, 2016) at pp. 5-6 (discussing the need for a reformed system comprised of a mix utility and third-party investment)("REV Track Two Order").

[3] REV Framework Order at p.11.

[4] REV Track Two Order at p. 6.

[5] *See, e.g.*, REV Framework Order at pp.11-12, 29-30.

Consistent with REV, Consolidated Edison Company of New York, Inc. ("Con Edison" or the "Company") has identified an opportunity to replace the Glendale Project, a traditional utility project, with the JFK Microgrid Project ("JFK Project"), an innovative, less expensive, Non-Wires Alternative[6] that addresses customers' needs while adding microgrid capability, and therefore enhanced resiliency, to John F. Kennedy International Airport ("JFK Airport" or "JFK"). If implemented, the JFK Project is designed to operate for at least 10 years, rendering the Glendale Project effectively abandoned.[7]

Before the JFK Project became a viable option, Con Edison spent approximately $9.4 million on duct work for the Glendale Project. These expenses were necessary for the Glendale Project to meet its then applicable in-service date. In this petition, Con Edison respectfully requests confirmation that it may recover these capital costs incurred for the Glendale Project as costs of implementing the JFK Project, either pursuant to the provision in its currently-effective Electric Rate Plan ("Rate Plan") that permits cost recovery for "costs incurred by the Company for implementation of [Non-Wires Alternatives] during the Electric Rate Plan"[8] or a similar

[6] Non-Wires Alternatives are projects that use distributed energy resources, such as distributed generation, to avoid or delay traditional utility infrastructure projects. *See, e.g.*, Case 15-E-0229, *Petition of Consolidated Edison Company of New York, Inc. for Implementation of Projects and Programs that Support Reforming the Energy Vision*, Order Approving Shareholder Incentives (issued Jan. 25, 2017) at p. 1 (defining Non-Wire Alternatives as "projects which replace or defer the need for transmission and distribution (T&D) system infrastructure through the use of customer-side distributed energy resources (DERs) or load reductions (customer-side solutions or CSS).") ("Incentive Mechanism Order"); Case No. 09-E-0428, *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consol. Edison Co. of New York, Inc. for Elec. Serv., et al.*, Order Approving Electric, Gas, and Steam Rate Plans in Accord with Joint Proposal, (issued Feb. 21, 2014) at n. 55 (stating that Non-Wires Alternatives refer to customer-sited Energy Efficiency measures, Demand Response measures, and DG"). The JFK Project will connect a customer-side co-generation facility, *i.e.*, a distributed generator, that supplies JFK with its electric requirements (indirectly, through financial arrangements) directly to Con Edison's distribution system in order to replace a more expensive traditional utility project.

[7] The Company previously informed the Commission of the possibility that the Glendale Project could be abandoned. *See* n. 19 *infra*.

[8] 2016 Electric Rate Case Proceeding, Order Approving Electric and Gas Rate Plans, Attachment A, at pp. 29-30 (issued Jan. 25, 2017) ("2016 Electric Rate Case Order").

provision in the Company's next rate plan.[9] In the alternative, Con Edison requests a ruling that the Glendale Project costs are prudently incurred costs of abandoned property that may be deferred as a regulatory asset.[10]

The JFK Project is the result of a creative partnership between Con Edison and the Port Authority of New York and New Jersey ("Port Authority"). While both parties are committed to the Project in concept, they need to negotiate the required agreements. Con Edison is also working with the New York Independent System Operator, Inc. ("NYISO") to review applicable procedures and requirements. The final decision on whether to replace the Glendale Project with the JFK Project depends on resolution of several important issues, including the Commission's ruling on this petition.

I. BACKGROUND

A. The Glendale Project

Con Edison developed the Glendale Project as part of a three-step effort to address projected overloads at its Brownsville No.1 and No.2 area substations.[11] Step one was to rely on

[9] Con Edison expects that, as discussed in the REV Track II Order, such provisions will continue to be part of electric rate plans. *See* 2016 Electric Rate Case Order at p. 6 (finding that the Non-Wires Alternative Mechanism established in the Rate Plan is "consistent with the intent of the Track Two Order"), p. 31 (describing the treatment of Non-Wires Alternatives in the Joint Proposal as "appropriately designed" to accomplish a goal emphasized in the REV Track Two Order); *cf.* REV Track Two Order at n. 111 (noting the need for flexibility in implementing reforms related to distributed energy resources that displace a capital project).

[10] Con Edison's current plans are to abandon the Glendale Project if the JFK Project is implemented. Should circumstances change such that the Company needs to build and place the Glendale Project into service, either during the initial 10 year term of the JFK Project or thereafter, any capital costs of the Glendale Project that the Company has recovered as a result of the Commission granting this petition would not be included in any subsequent cost recovery.

[11] The Brownsville No. 1 and No. 2 substations support north central and eastern Brooklyn neighborhoods, including parts of Greenpoint, East Williamsburg, Bushwick, Bedford-Stuyvesant, Crown Heights, East Flatbush, Brownsville, and East New York, and southwestern Queens neighborhoods, including parts of Richmond Hill, Howard Beach, Broad Channel, Ozone Park, South Ozone Park, Woodhaven, and Kew Gardens.

capacitors and small load transfers.[12] Step two was to implement the BQDM Program until 2018.[13] And step three was to build the Glendale Project for service by the summer of 2019. The Company expected that the combination of the BQDM Program and Glendale Project would defer the need for more extensive construction—the New Substation/Gowanus Expansion Project—until 2024.[14]

The Glendale Project is a traditional utility project that involves transferring 60 MW of load from the Ridgewood network (which is supplied by the Brownsville No. 1 area substation) to the Maspeth Network (which is supplied by the Glendale substation).[15] The Project requires adding a fifth 138 kV feeder running from the Vernon substation to the Glendale substation and a new transformer at the Glendale substation. The new feeder would supply the new transformer as well as 14 new distribution feeder positions. The design also calls for extending 12 network feeders from the Maspeth to the Ridgewood network, splitting 15 feeders in the Ridgewood network, and installing more than 17 miles of new conduit, 680 sections of primary cable, 273 structures, 12 network transformers, 123 sections of secondary cable, and duct banks along the entire route from the Vernon substation to the Glendale and Newtown substations.[16] In order to

[12] *See* BQDM Proceeding, Petition of Consolidated Edison Co. of New York, Inc. for Approval of Brooklyn/Queens Demand Management Program (filed Jul. 15, 2014) at p. 3 ("BQDM Petition").

[13] *Id*. at pp. 3-4 & n. 4. The Commission approved the BQDM Program. BQDM Proceeding, Order Establishing Brooklyn/Queens Demand Management Program (issued December 12, 2014) ("BQDM Order").

[14] BQDM Petition at pp.3-4.

[15] Originally, Con Edison planned to transfer 80 MW. *Id*. at n.3. For the whitepapers describing the Glendale Project, s*ee* Case 16-E-0060, *Consolidated Edison Company of New York, Inc*. *Electric Rate Case Filing* ("2016 Electric Rate Case Proceeding"), Electric Infrastructure and Operations Panel Testimony (filed Jan. 29, 2016) Ex. EIOP-4, Schedule 4 at p.17, 45.

[16] For a summer 2019 in-service date, cable would only be installed in the portion of the route between the Vernon and Glendale substations. Cable to the Newtown substation would not be installed until the Newtown transformer bank is required for service.

meet the summer 2019 deadline, and following its standard timeline for such projects, Con Edison began the required conduit work in 2016.

B. JFK Project

JFK Airport includes a 120 MW nameplate gas-fired co-generation facility with blackstart capability that is operated by KIAC Partners for the benefit of the Airport ("KIAC Cogen Facility").[17] To meet JFK's electricity needs, approximately 50-55 MW at peak, the KIAC Cogen Facility provides electricity to the transmission system at Con Edison's Jamaica substation and JFK receives electricity from Con Edison's system, rather than directly from the KIAC Cogen Facility. Because of this arrangement, JFK is dependent on Con Edison's electric transmission and distribution systems for its electricity.

In late 2015, the Port Authority approached Con Edison about exploring opportunities related to the KIAC Cogen Facility. In the spring of 2016, the Company completed its preliminary analysis and began to explore a potential project in earnest. Subsequently, the Company saw an opportunity to use the KIAC Cogen Facility to replace the Glendale Project. Rather than build the infrastructure necessary to transfer load away from Brownsville, the Company determined that it could divert power from the KIAC Cogen Facility to Brownsville when necessary.[18] In addition, the Company determined that the required equipment could be configured to enhance the resiliency of JFK by enabling the Airport to operate as a microgrid.

[17] KIAC Partners is a partnership wholly-owned by the Calpine Corporation ("Calpine"). Con Edison has discussed the JFK Project with Calpine and the Port Authority.

[18] The equipment required for the JFK Project includes a new distribution switching station, two new phase angle regulators, two new transformers, and new feeders linking the new equipment to the existing Con Edison and JFK systems. Under the proposed arrangement, from May 1-October 1, the KIAC Cogen Facility will be required to supply Con Edison with up to 55 MW at Con Edison's request. During the rest of the year, the KIAC Cogen Facility must make reasonable efforts to supply up to 55 MW, if requested by Con Edison.

By January 2017, the Company's analysis demonstrated that if it extended the BQDM Program past 2018 the Glendale Project could be deferred until 2021, which would create enough lead time for the JFK Project to replace the Glendale Project.[19] Accordingly, Con Edison asked the Commission to extend the BQDM Program and continued discussions with the Port Authority. In July, the Commission granted Con Edison's request to extend the BQDM Program,[20] and Con Edison and the Port Authority agreed to pursue further discussions aimed at developing the JFK Project. Since then, Con Edison and the Port Authority have been negotiating various agreements necessary for the JFK Project to proceed and anticipate agreements that would keep the JFK Project in place for an initial term of 10 years with the option to negotiate an extension.

C. Non-Wires Alternative Rate Plan Provisions and Benefit Cost Analysis

Con Edison's currently-effective Rate Plan provides direction on how the Company should account for Non-Wires Alternatives, such as the JFK Project.[21] The Rate Plan, as approved by the Commission, provides that:

> The costs incurred by the Company for implementation of NWAs during the Electric Rate Plan, including the overall pre-tax rate of return on such costs, will be recovered over ten (10) years.[] Recovery of NWA costs during this Electric Rate Plan will be through the MAC and NYPA OTH Statement. Unamortized NWA costs, including the return, will be incorporated into the Company's base rates when electric base delivery rates are reset.

[19] BQDM Proceeding, Petition for Extension of Time to Implement Brooklyn/Queens Demand Management Program (filed Jan. 19, 2017) at p. 7 ("Significantly, the Company anticipates that pursuing load relief opportunities beyond 2018 would result in an additional important benefit; the Company is seeking to be able to also defer the Glendale Project . . . which the Company would otherwise implement to be in service in 2019. . . [D]eferring the Glendale Project for two additional years would allow the Company to explore innovative opportunities that might defer or entirely offset the need for Glendale Project.") ("BQDM Extension Petition").

[20] BQDM Proceeding, Order Extending Brooklyn/Queens Demand Management Program (issued Jul. 13, 2017).

[21] Con Edison expects similar provisions in future rate plans. *See supra* n. 9.

> To the extent NWAs result in the Company displacing a capital project reflected in the Average Electric Plant In Service Balances, the balance(s) will be reduced to exclude the forecasted net plant associated with the displaced project. The carrying charge on the reduction of the Average Electric Plant In Service Balances that would otherwise be deferred for customer benefit will instead be applied as a credit against the recovery of the NWA in the MAC and the NYPA OTH Statement. In the event the carrying charge on the net plant of any displaced project is higher than the NWA recovery, the difference will be deferred for the benefit of customers.[22]

The Rate Plan also requires Con Edison to submit an implementation plan and updates for all Non-Wires Alternatives, and to perform a Benefit Cost Analysis ("BCA") in accordance with its BCA Handbook and in consultation with DPS Staff.[23] In addition, the Rate Plan and the Incentive Mechanism Order provide that the Company's Non-Wires Alternatives are eligible for an incentive mechanism.[24] The Commission held that the Company may earn an incentive for Non-Wires Alternatives that replace or defer the Company's traditional infrastructure investments based on a share of the difference in the present values of the net benefits of a Non-Wires Alternative versus the net benefits of a traditional utility solution that would have otherwise been built.[25] In comparing present value of net costs and benefits, the Company is to use its BCA Handbook.

[22] 2016 Electric Rate Case Order, Attachment A, at pp. 29-30.

[23] *Id*. pp. 30-31. Because the circumstances of the JFK Project do not fall neatly into the protocols in the *Operating Procedure for Calculation of NWA Financial Incentives* and *Non-Wires Alternative Implementation, Customer and Community Outreach Plan*, Con Edison will consult with DPS Staff to adapt them to this case.

[24] Incentive Mechanism Order at p.2, pp. 9-13; 2016 Electric Rate Case Order, Attachment A, at p. 30.

[25] The Company has asked for clarification from the Commission that a Non-Wires Alternatives implemented subsequent to exhaustion of BQDM Program funding, which would enable further deferral of the Glendale Project, would be separate from the BQDM Program and eligible for any applicable non-BQDM incentive mechanism (*e.g.*, an incentive mechanism included in the Company's next rate plan that is applicable to Non-Wires Alternatives). *See* BQDM Proceeding, Petition for Clarification (filed Aug. 14, 2017).

The Company cannot yet finalize a BCA because it is still negotiating agreements with the Port Authority, including certain financial terms.[26] Con Edison's preliminary analysis, however, indicates that the JFK Project will be less expensive and more cost-effective for customers than the Glendale Project, including accounting for Con Edison's recovery of the approximately $9.4 million of duct work invested in the Glendale Project. The JFK Project is expected to exceed a 1 to 1 benefit to cost ratio by a substantial margin and save customers infrastructure costs over the Glendale Project. Con Edison will present a final BCA to DPS Staff upon completion of negotiations with the Port Authority.

In addition to monetary benefits, the Commission has encouraged Con Edison to consider "significant non-monetized external concerns . . . such as local community impacts, and bring these to Staff's attention when they exist."[27] The substitution of the JFK Project for the Glendale Project brings such benefits. For example, JFK's ability to operate as a microgrid will significantly enhance the reliability and resiliency of the Airport, to the benefit of New Yorkers and others who rely on it for business, personal travel, or employment. The JFK Project will also require less construction and equipment, which will benefit the environment. Finally, the Glendale Project requires significant work in public roadways, which would be expected to cause traffic delays, while the JFK Project is largely confined to JFK.[28]

[26] These financial terms will include payments to the Port Authority for the Company's right to divert the power to the Brownsville substation. The Company will capitalize and recover those payments as part of the implementation cost for this project.

[27] Incentive Mechanism Order at p. 13.

[28] The JFK Project will require approximately 6 miles of trenching, mostly on roadways at the Airport owned by the Port Authority, while the Glendale Project will require approximately 9.6 miles of trenching in public roadways.

II. PETITION

The JFK Project is an example of the creative partnerships REV was intended to foster and creates the type of customer value REV was intended to unlock. As a Non-Wires Alternative, the JFK Project will replace a traditional utility project with a less expensive solution that relies on an existing distributed generation facility. But above and beyond that, the project will enhance the resiliency of one of the nation's most important airports by adding microgrid capability. Microgrids are precisely the type of opportunity for resilience and system security that REV is intended to create,[29] and the ability to operate JFK as a microgrid when necessary is a valuable benefit for all who rely on the Airport.

The JFK Project will also enable Con Edison to gain important experience as it implements REV's mandate. As distributed resource integration proceeds, developing new business models with new partners and working through complex issues with the NYISO will become more and more common. The JFK Project presents Con Edison with the opportunity of demonstrating that these hurdles can be overcome. Learning from this process will allow Con Edison to explore similar opportunities in the future.

One of the issues that Con Edison necessarily considered with respect to the JFK Project is the funds that it has already spent on the Glendale Project. Unlike other Non-Wires Alternatives considered by the Company and the Commission, the JFK Project became viable only after the Company initiated investment in the traditional project otherwise needed to meet customer needs. These circumstances should neither foreclose consideration of the JFK Project nor result in the Company bearing costs that were prudently incurred in the course of seeking to provide safe and reliable service to customers. Consequently, Con Edison respectfully requests

[29] REV Framework Order at p. 23.

confirmation that it may recover capital costs incurred for duct work for the Glendale Project as costs of implementing the JFK Project, either pursuant to the provision in its currently-effective Rate Plan that permits cost recovery for "costs incurred by the Company for implementation of [Non-Wires Alternatives] during the Electric Rate Plan"[30] or a similar provision in the Company's next rate plan. In the alternative, Con Edison requests a ruling that the Glendale Project costs are prudently incurred costs of abandoned property that may be deferred as a regulatory asset.[31]

A. The Glendale Project Costs Are JFK Project Implementation Costs

The Commission has previously explained that one of the principal goals of REV is to "define good utility practice for the next century" by transforming how the electric system is planned and operated,[32] and that "[c]onsumers benefit when utilities aggressively pursue more economic alternatives to traditional rate based capital investment."[33] When, as here, that aggressive pursuit results in identifying a Non-Wires Alternative after the utility has started to invest in a traditional solution, allowing the utility to recover its investment in the traditional solution as a cost of implementing the Non-Wires Alternative is reasonable. First, such recovery is integral to the business judgment the utility exercises in determining how best to serve customers' needs. Allowing recovery of the Glendale Project costs as JFK Project implementation costs merely aligns cost recovery with this decision-making process, and

[30] Although the Company is requesting in this petition a decision for the JFK Project only, the Company supports Commission action that would establish such recovery as a generic principle and thereby facilitate other Non-Wires Alternatives.

[31] Pursuant to such an alternative ruling, the Company would propose a method of recovery from customers in the Company's next electric rate filing.

[32] REV Framework Order at p. 11.

[33] REV Track Two Order at p. 23.

therefore falls well within the scope of an "implementation cost." Second, such recovery is consistent with the dynamic nature of planning, and therefore removes a practical barrier to the reformed system the Commission has in mind. Planning is and should be a fluid process, with new possibilities emerging at different times and as circumstances change. This is precisely what occurred here, as the JFK Project became potentially viable only after the Company had spent money on the Glendale Project. By treating the Glendale Project costs as JFK Project implementation costs, the Commission would be sending a powerful signal that the innovative planning process envisioned by REV need not stop once a utility has started spending money on a traditional project. Third, allowing such recovery would help create the regulatory climate the Commission has stated that it wants to build. The Commission has explained that "the critical challenge that REV creates is to develop the regulatory environment in which a utility will naturally and aggressively pursue system solutions that simultaneously create customer benefit and increase the utility's earning opportunity."[34] One way to build this type of environment is to remove uncertainty about cost recovery when a utility heeds the Commission's call and aggressively pursues Non-Wires Alternatives. Such uncertainty should not deter utilities from giving creative Non-Wires Alternatives the full consideration they require when reliability considerations dictate that the utility begin work on a traditional project before the Non-Wires Alternative has had time to fully mature or demonstrate its feasibility. Finally, allowing such recovery would be consistent with how the Commission treated similar costs in the AMI Order.[35] There, Con Edison proposed a program to replace traditional meters both in inventory and in

[34] REV Track Two Order at p. 7.

[35] Case No.15-E-0050, *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, et. al*, Order Approving Advanced Metering Infrastructure Business Plan Subject to Conditions (issued Mar. 17, 2016) ("AMI Order").

service with advanced meters and the Commission allowed continued recovery of the costs of the traditional meters.[36]

B. The Glendale Project Costs Were Prudently Incurred

If the Commission declines to confirm that Con Edison can recover the Glendale Project costs as costs of implementing the JFK Project, Con Edison respectfully requests a ruling that it may recover the Glendale Project costs as the prudently incurred costs of abandoned property. The Public Service Law permits the Commission to authorize full recovery of abandoned property in rates, even if the property was never placed into service. In *Abrams v. Public Service Commission*, the Court of Appeals held that the Commission has broad discretion to consider all relevant factors in setting just and reasonable rates, including authority to allow recovery of abandoned property under a prudence test rather than a "used and useful" test.[37] Consistent with this authority, the Commission's general policy has been to allow utilities to recover prudently incurred investment in abandoned plant.[38]

The Commission recently explained that the test for prudence is "whether the utility acted reasonably, under the circumstances at the time, 'considering that the company had to solve its

[36] *Id*. at p. 48.

[37] *Abrams v. Pub. Serv. Comm'n of the State of New York*, 67 N.Y. 2d 205, 215-17 (finding that there is no federal prohibition to applying a prudence test to abandoned property, recognizing that a prudence test has been the law in New York, and refusing to read into the Public Service Law an unwritten prohibition against it). *See also* Alfred E. Kahn, The Economics of Regulation: Principles and Institutions, xxvi-xxviii ("judgments of prudence can, in principle – and in fairness – be made only as of the time when the pertinent commitments and expenditures were made") (1991).

[38] *See, e.g*. Case No. 88-W-048, *Spring Valley Water Company, Inc*., Opinion and Order Adopting Recommended Decision (issued Oct. 3, 1990), 30 N.Y.P.S.C. 1831 at 1840 ("[U]tility losses have generally been recovered from New York ratepayers unless they were adjudged imprudent or there were unusual circumstances that warranted a different result so that just and reasonable rates could be set. Despite the company's suggestion to the contrary, this general policy has been applied in cases involving abandoned power plants, as well as in many others.").

problems prospectively, rather than in reliance on hindsight.'"[39] Here, Con Edison acted prudently in investing $9.4 million in duct work for the Glendale Project. At the time of the investment, the Company's forecasts indicated that the Glendale Project needed to be in service by the summer of 2019 to meet customers' needs and to defer the more expensive New Substation/Gowanus Expansion Project. It was reasonable and appropriate for the Company to move on a schedule that would meet that deadline, which included starting duct work in 2016. Moreover, once the JFK Project became a viable alternative to the Glendale Project, the Company ceased duct work and ceased spending on the Glendale Project.[40]

III. CONCLUSION

Wherefore, for the reasons set forth above, Con Edison respectfully requests that the Commission act on this petition and confirm that Con Edison may recover all capital costs incurred for duct work for the Glendale Project as costs of implementing the JFK Project. In the alternative, Con Edison requests a ruling that the Glendale Project costs are prudently incurred costs of abandoned property that may be deferred as a regulatory asset.

Respectfully submitted,

CONSOLIDATED EDISON COMPANY
OF NEW YORK, INC.

By: */s/ Joshua A. Konecni*
Joshua A. Konecni
Assistant General Counsel
4 Irving Place, Room 1815-s
New York, New York 10003
konecnij@coned.com

Dated: October 27, 2017

[39] AMI Order at p. 48.

[40] The Company notes that it ceased spending money on the Glendale project before it received approval from the Commission for the BQDM extension.