

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on October 15, 2026

COMMISSIONERS PRESENT:

Rory M. Christian, Chair
James S. Alesi
David J. Valesky
John B. Maggiore
Uchenna S. Bright
Denise M. Sheehan
Radina R. Valova

CASE 24-E-0497 - Notice of Intent of Housing is a Human Right
LLC to Submeter Electricity at 364 West 54th
Street, New York, Located in the Service
Territory of Consolidated Edison Company of New
York, Inc.

ORDER GRANTING WAIVER OF INDIVIDUAL METERING REQUIREMENTS

(Issued and Effective October 23, 2026)

BY THE COMMISSION:

INTRODUCTION

By petition filed April 7, 2026, Housing is a Human
Right LLC (Owner) requests waiver of the individual metering
requirements established in Opinion 76-17¹ and in 16 NYCRR Part
96 for the building located at 364 West 54th Street, New York,
New York, in the service territory of Consolidated Edison
Company of New York, Inc. (Petition). By this Order, the
Commission grants the Owner's request.

¹ Case 26998, Proceeding on motion of the Commission as to Rent
Inclusion and Submetering for Electricity, Opinion No. 76-17
(issued August 16, 1976).

BACKGROUND

The Owner seeks to amend the Commission's prior order authorizing submetering at the building located at 364 West 54th Street, New York, New York.² The Owner seeks waiver of the individual metering requirements for the building's supportive housing units (Supportive Units) in accordance with 16 NYCRR §96.2(c). The Supportive Units represent 59 of the 112 total units, as described in the Owner's Notice of Intent filed on September 5, 2024.³ The Owner states that the 59 Supportive Units will "provide congregate residential housing with supportive services, including on-site monitoring, and personal care services and/or home care services in a homelike setting" and therefore constitute an "assisted living facility" as defined in 16 NYCRR §96.1 (a). The Owner states that a master-metered, as opposed to the current submetered, arrangement will optimize the financial resources available for tenants of the Supportive Units. The Owner will manage the building and will be responsible for providing supportive services to the residents.

The Owner states that residency in the Supportive Units will be reserved for chronically homeless individuals with serious mental illness and/or substance use disorder. The petition specifies that the Supportive Units will be leased solely to tenants who are referred to the Owner by the City of New York, acting by and through its Department of Housing Preservation and Development (HPD), or an alternative source approved by HPD. All tenants, prior to their initial occupancy in the Supportive Units, resided in emergency shelter facilities

² Case 24-E-0497, Order Authorizing Submetering (issued March 26, 2025) (the Order).

³ Case 24-E-0497, Submetering Notice of Intent (filed September 5, 2024).

operated by or on behalf of the City or are otherwise in need of emergency shelter as determined by the City. The supportive units will be funded in part by New York City Human Resources Administration (HRA). The HRA intends to provide certain funds in connection with the supportive services that will be offered to the tenants of the Supportive Units, in accordance with an HRA contract for a 15-year term.

As stipulated in the Agreement, tenants of the Supportive Units will have access to a comprehensive supportive services program designed to empower formerly homeless individuals to live healthier lives, mitigate the risk of substance use relapse and mental health crises, make social connections and become integrated in their community, and maintain housing stability, among other goals (the Program). The Program will include, but not be limited to, case management, individual and group counseling, as well as workshops on independent healthy living skills, financial literacy and budgeting, and educational and employment growth, and other structured social activities. These supportive services will primarily be delivered by on-site staff and referrals to community-based service providers, bolstered by an off-site component. Specifically, tenants will have access to Housing Works, Inc.'s off-site support services, including primary medical care, mental health care, substance use services, harm reduction services, counseling, support groups, and vocational training.

The Notice of Intent states that each unit is equipped with Energy Star® refrigerators and dishwashers, and energy-efficient washers and dryers. The building incorporates efficient common area lighting fixtures with occupancy sensors and lighting control system. The Owner states the building also incorporates double-glazed, argon-filled, low-emitting glass

windows. The Notice of Intent states that the building participates in New York State Energy Research and Development Authority's Multifamily New Construction program. Con Edison master-meters the building.

NOTICE OF PROPOSED RULE MAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rulemaking was published in the State Register on May 27, 2026 [SAPA No. 24-E-0497SP2]. The comment period expired on July 27, 2026. On May 29, 2026, an individual commented in support of the petition to amend the Order Authorizing Submetering.

LEGAL AUTHORITY

Under Public Service Law §66, the Commission has general supervision of all electric corporations in New York State including the ability to regulate the terms under which electric corporations provide electric service to their customers (in this instance, the Owner). The Commission's regulations regarding the submetering of electricity to residential customers are set forth in 16 NYCRR Part 96.

DISCUSSION AND CONCLUSION

Sixteen NYCRR §96.2(c) expressly permits electric service to be provided to assisted living facilities through a master-meter arrangement. Sixteen NYCRR §96.1(a) defines "Assisted Living Facilities" as "multi-unit residential premises, identified as assisted living facilities and certified by the New York State Department of Health (DOH) as such, which provide congregate residential housing with supportive services, including on-site monitoring, and personal care services and/or home care services in a homelike setting." The Commission has

previously granted waiver of the individual metering requirement to facilities that are not certified by DOH but provide financial support for a specific population in similar situations.⁴ Factors that the Commission weighs in assessing similarity to DOH-certified assisted living facilities include availability of support services, whether price signals from individual meters are likely to produce a meaningful conservation response, and the public interest, including the Commission's interest in its individual metering policy, local economic development, and the public interest goals of the facility.⁵

The Supportive Units are supportive housing in nature and, thus, similar to an assisted living facility as defined in 16 NYCRR §96.1(a). Like other assisted living facilities, the Owner offers comprehensive on-site supportive services to a specific population. The Owner states that price signals would not yield a meaningful conservation response from this population. The Commission agrees that the installation of individual meters for the 59 Supportive units to be occupied by formerly homeless individuals with serious mental illness and/or substance use disorder would not advance the efficiency and affordability goals that underlie the Commission's submetering policy.

Therefore, it is in the public interest to waive the individual residential living unit metering requirements in 16 NYCRR Part 96 for the 59 Supportive Units. This waiver is expressly conditioned on the continued use of the 59 units as a

⁴ Case 12-E-0579, Independent Living, Inc. Submetering, Order Granting Waiver of the Individual Residential Unit Metering Requirements (issued June 19, 2013).

⁵ Id.; Case 17-E-0604, Broome, Inc. - Submetering, Order Granting Waiver of the Individual Residential Unit Metering Requirements (issued March 1, 2018).

residence with supportive services provided to residents. This waiver shall terminate if the units are put to a different use. Should the use of the Supportive Units change, the Owner shall submit a filing to the Secretary to the Commission stating the new use(s) of the 59 Supportive Units prior to any conversion and the Owner shall comply with the then applicable metering regulations and Commission requirements.

The Commission orders:

1. The individual metering requirements in 16 NYCRR Part 96 are waived for the building at 364 West 54th Street, New York, New York, subject to the conditions in the body of this Order.

2. This waiver is expressly conditioned on the continued use of 364 West 54th Street, New York, New York as a residence with supportive services provided to residents, and this waiver shall terminate if the 59 supportive units are put to a different use. Should the use of the supportive units at 364 West 54th Street, New York, New York change, the Owner shall submit a notice in this proceeding to the Secretary to the Commission at least 120 days before the planned change in use, providing a full explanation of the change in use and addressing the potential need for Commission action to modify this Order.

3. Housing is a Human Right LLC shall, within 60 days of the date of this Order, certify in writing to the Secretary to the Commission that it accepts the condition that waiver of the individual metering requirements is contingent on the continued use of the residences as supportive housing units.

4. This proceeding is closed pending compliance with
Ordering Clause 3.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary