STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on September 17, 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 26-E-0184 - Petition of 30 Broad Development, LLC to Submeter Electricity at 30 Broad Street, Port Chester, Located in the Territory of Consolidated Edison Company of New York, Inc

ORDER AUTHORIZING SUBMETERING

(Issued and Effective September 23, 2026)

BY THE COMMISSION:

INTRODUCTION

By petition filed on March 18, 2026, 30 Broad Development, LLC (Owner) requests authorization to submeter electricity at 30 Broad Street, Port Chester, New York (Petition). This new rental building is located in the service territory of Consolidated Edison Company of New York, Inc. (Con Edison). By this Order, the Commission approves the Owner's request to submeter electricity.

PETITION TO SUBMETER

This new rental building consists of 42 units. Of the 42 units, 38 will be rented at fair-market value, and four units are reserved for individuals earning at or below 60 percent of

area median income. The Petition states that the units will be equipped with Energy Star®-rated refrigerators, dishwashers, washers, and dryers.

The Petition states that the Commission-approved SATEC Inc. BFM-136 submeters will be installed in the building. Con Edison will master-meter the building. The Owner provided all information required by 16 NYCRR §96.5 for the Commission to consider a petition to submeter electricity.

The Petition states that the building will be heated using a variable refrigerant flow (VRF) system. The VRF system will be configured such that a single condenser that heats the refrigerant is wired to the individual living unit's submeter, and thus each unit's submeter will register the electricity usage associated with that unit. Residents will be able to control the temperature of their units with a programmable thermostat.

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 April 29, 2026 [SAPA No. 26-E-0184SP1]. The comment period expired on June 29, 2026. On March 27, 2026, an individual submitted a comment opposing the request for authority to submeter. The comment states that there is lack of demonstrated public interest benefits of submetering. Also, the comment states that third-party billing poses certain risks to submetered customers since the core elements of electricity service, including billing, dispute resolution, and potential service termination, are transferred from a regulated utility to a private billing agent. In addition, the comment states that the profit model under submetering creates a perverse financial incentive to maximize energy consumption rather than minimize it

especially with the use of electric heat. Further, the comment claims the building should be required to comply with the notice requirements under 16 NYCRR Part 96 for residents to be notified that the building will be submetered and where to submit comments.

LEGAL AUTHORITY

Under Public Service Law (PSL) §66, the Commission has general supervision of all electric corporations in New York State, which includes the authority to regulate the terms under which electric corporations provide electric service to their customers (in this instance, the Owner). In addition, PSL Article 2 (§30 et seq.) constitutes the Home Energy Fair Practices Act, the statutory protections governing the furnishing of electric service to residential customers. The Commission's regulations regarding submetering of electricity to residential customers are set forth in 16 NYCRR Part 96.

DISCUSSION AND CONCLUSION

The Commission reviews the request for authority to submeter electricity for consistency with the requirements of 16 NYCRR Part 96. Per 16 NYCRR §96.3, submetering shall be authorized if the request for authority includes all information required by §96.5, after individual notices have been provided to residents, and upon the Commission's determination that submetering is in the public interest and consistent with the provision of safe and adequate electric service to residents.

The Commission finds that the Owner has complied with the informational requirements of 16 NYCRR §96.5 and that submetering is in the public interest, and grants authorization to submeter electricity. To ensure that submetered customers receive consumer protections comparable to directly metered

customers, approval of submetering is conditioned upon the Owner's compliance with the requirements of this Order and compliance with the notice and consumer protection requirements of the Home Energy Fair Practices Act (HEFPA); 16 NYCRR Part 11, which implements HEFPA; and 16 NYCRR §96.6. Pursuant to 16 NYCRR §96.3(d), the Owner shall certify to the Secretary to the Commission within 60 days of the issuance of this Order that it accepts, understands, and will abide by all submetering conditions required in this Order and the Commission's regulations, and that it has or will provide copies of all notices required by 16 NYCRR §96.3(c)(3) to residents.

The Owner shall provide bill discounts to eligible low-income customers consistent with the discounts provided to low-income customers through the incumbent utility's Energy Affordability Program (EAP) and the Enhanced Energy Affordability Program (EEAP). The Owner shall clearly state the processes for enrollment in the submetering lease rider. The Commission requires major electric and gas utilities in New York State to offer discount programs to eligible customers.[1] As of July 17, 2025, the Commission has expanded eligibility to also include customers with income below the state or area median income who do not qualify for assistance under the traditional EAP.[2] As explained in Case 20-E-0190 and Case 23-M-0298,[3] building owners administering submetered accounts must reflect

[1] Case 14-M-0565, Proceeding to Address Energy Affordability for Low Income Utility Customers, Order Adopting Low Income Program Modifications and Directing Utility Filings (issued May 20, 2016).

[2] Case 23-M-0298, Budget Appropriations to Enhance Energy Affordability Programs, Order Adopting Enhanced Energy Affordability Policy and Directing Utility Filings (issued July 17, 2025) (EEAP Order).

[3] Case 20-E-0190, QPP LLC – Submetering, Order Authorizing Submetering (issued March 24, 2021); EEAP Order, p. 15, n. 21.

EAP and EEAP bill discounts in the calculation of each eligible customer's rate cap[4] to ensure that submetered customers are afforded the same benefits and protections as similarly situated direct-metered customers. The discount program for submetered customers shall be generally equivalent to the program offered by the incumbent utility, as laid out in Con Edison's Tariff PSC No. 10 Electricity, LIC Statement No. 8. The Owner shall allow submetered customers to self-identify as eligible for a bill discount equivalent to the relevant utility's EAP or EEAP discount by providing the building owner with appropriate documentation. The process for residents to self-identify, including a list of sufficient documentation, shall be clearly stated in the submetering lease rider.

The Owner should additionally provide all residents with materials regarding the Home Energy Assistance Program (HEAP), administered by the New York State Office of Temporary Disability and Assistance (OTDA), which provides financial assistance for heating to income-eligible households. Information about program benefits and eligibility is available on the OTDA website.[5]

Although a VRF system is a form of electric heat, the provisions of 16 NYCRR §96.5(l) regarding residential electric submetering are not applicable to this case. When a VRF system

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[4] The rate cap is "[t]he maximum rate, calculated in each billing period, that may be used to compute the charges for electric service to a submetered resident. Unless a different rate cap is set ... the rate cap shall be the rates and charges of the distribution utility for delivery and commodity in that billing period to similarly situated, direct metered residential customers. Where residents are billed for time-of-use, the maximum rate for purposes of calculating the rate cap shall be the average annual residential rate." 16 NYCRR §96.1(i).

[5] Home Energy Assistance Program (HEAP), Office of Temporary and Disability Assistance, https://otda.ny.gov/programs/heap.

is wired through the building's common electric panel, such that the kilowatt-hour usage of the condensing unit is neither measured nor billed through individual residential submeters, the Commission does not consider the building an "electric heat property" within the meaning of 16 NYCRR §96.5(l). The Commission does not regulate individual charges for heating derived through the VRF system separate from the submetering system.

One public comment expresses concern that the Petition has not demonstrated that authorizing submetering at this location would be in the public interest. The comment asserts that authorizing submetering at this location would reduce consumer protections, impose additional electricity costs on residents, and increase energy consumption. The comment also addresses the lack of individual notices to residents per 16 NYCRR Part 96.

The Commission finds that authorizing submetering at this location places customers in at least as good a position as if they were directly metered customers of the utility. The Owner must comply with the conditions and requirements of this Order, HEFPA, and 16 NYCRR Part 96, which include protections related to notice, deferred payment, and disconnection of service, among other protections. These requirements ensure that, as submetered customers, the residents have the same consumer protections they would have as customers of the utility. Further, the Commission notes that, although the Owner may choose a third-party billing agent to administer submetering at this premise, it is the Owner who is ultimately responsible for ensuring compliance with the conditions and requirements of this Order, HEFPA, and 16 NYCRR Part 96. Additionally, the rate cap ensures that submetered customers pay no more than similarly situated directed metered customers of the utility.

Regarding the allegation that submetering increases electricity consumption: the Commission does not find the analysis provided to be convincing. The analysis draws on a dataset that contains building-level consumption within the Village of Port Chester. The data does not, on its own, show that submetering itself will lead to increased electricity consumption at this location. Submetered customers receive the same price signals and have the same incentive to conserve electricity as directly metered customers of the utility. The submetered regulations require that submetered buildings have energy efficient appliances and are built to high energy efficiency standards. The difference in electricity consumption could be due to variables such as larger average apartment size or more frequent use of electric heat in submetered buildings. Although electric heat will lead to an increase in electricity demand, efficient electric heat systems like the ones proposed for this location, may reduce overall energy demand and are consistent with State and local greenhouse gas reductions laws and policies. Therefore, submetering and the installation of efficient electric heat, is consistent with public interest. Further, the generalized building energy use data presented by the comment would be best analyzed and considered in a generic proceeding that offers all stakeholders an opportunity to participate.

As to the comment regarding the notice requirements, as previously discussed, the Owner is directed by this Order to comply with the applicable resident notification requirements to inform residents of the submetering plan for this building. Finally, the Commission notes that the individual who submitted the comments did not provide any evidence of a lease for a living unit on the premises and therefore has presented no

evidence that they are directly impacted by this request for authority to submeter.

The Owner shall file with the Secretary to the Commission, within six months of the issuance of this Order, certification that the Owner has installed the Commission-approved SATEC Inc. BFM-136 submeters. Within six months of the issuance of this Order, the Owner shall file a meter test plan detailing its annual testing program, in accordance with the testing procedures and standards outlined in 16 NYCRR Part 92.

If building ownership or property management is transferred, the current Owner shall provide the prospective owner or property manager written notification that the building is submetered. Such notification shall include a copy of the submetering requirements set forth in 16 NYCRR Part 96 and this Order. Pursuant to 16 NYCRR §96.6(i), the current Owner, or any future owner, shall submit an updated Submeterer Identification Form[6] to the Secretary to the Commission as a record in this case within ten days of any changes to the information provided therein.

The Commission orders:

1. 30 Broad Development LLC is authorized to submeter electricity at 30 Broad Street, Port Chester, New York, subject to the conditions in the body of this Order.

2. 30 Broad Development LLC shall, within 60 days of the issuance of this Order, certify in writing to the Secretary to the Commission that it accepts the submetering conditions required in this Order and by the Commission's regulations and that it has, or will, provide copies of all required notices to

[6] Available on the Department of Public Service website at https://dps.ny.gov/system/files/documents/2023/05/submeterer-identification-form.pdf.

its residents and to new ownership or property management as applicable.

3. 30 Broad Development LLC shall file with the Secretary to the Commission, within six months of the issuance of this Order, certification that SATEC Inc. BFM-136 submeters have been installed at the building.

4. 30 Broad Development LLC shall file a meter test plan with the Secretary to the Commission within six months of the issuance of this Order.

5. In the Secretary's sole discretion, the deadlines set forth in this Order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least three days prior to the affected deadline.

6. This proceeding is closed pending compliance with Ordering Clauses 2, 3, 4.

By the Commission,

(SIGNED) MICHELLE L. PHILLIPS
Secretary