

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

- CASE 22-E-0064 - 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.
- CASE 22-G-0065 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Gas Service.

RULING ON EVIDENTIARY HEARING PROCESS

(Issued April 4, 2023)

JAMES A. COSTELLO and ASHLEY MORENO, Administrative Law Judges:

The evidentiary hearing will commence on Tuesday, April 18, 2023 at 10:30 a.m. The hearing will be held at the Public Service Commission's Albany offices and will also be connected to the Public Service Commission's New York City office at 90 Church Street via live webcast. All witnesses, counsel and representatives either proffering witnesses or conducting cross-examination during the hearing, must appear in Albany. Any party that wishes to make an appearance but not actively participate in the hearing may attend and view the hearing in New York City.

**Affidavits**

As we indicated in our Ruling on Schedule and Process issued March 6, 2023, at a minimum, Consolidated Edison of New York, Inc. (Con Edison) and Department of Public Service Staff must, and any party may, file expert witness affidavits adopting the factual statements included in their Statements. Reply statements are due April 5, 2023. The affidavits should be filed no later than April 6, 2023.

**Cross-Examination**

Any party seeking to cross-examine a witness regarding the Joint Proposal must advise us by email no later than this Thursday, April 6, 2023 what section of the Joint Proposal and/or subject matter they wish to cross-examine and the amount of time they anticipate needing for cross-examination.

**Cross Examination of Confidential Material**

Any counsel intending to ask cross-examination questions regarding any confidential Protected Information shall contact the ALJs no later than 4:30 p.m. on Thursday, April 13, 2023, to allow the ALJs an opportunity to make appropriate arrangements. Parties are encouraged to work around the confidential Protected Information to the maximum extent possible.

**Attending Cross Examination of Other Parties**

Repetitious and/or duplicative cross examination will not be permitted. If another party shares a common issue with you and you intend to cross examine the same witness(es), plan to attend the hearing to listen to that party's questioning of the witness(es).

**Subject to Check**

To ensure an accurate evidentiary record is developed, as a general rule witnesses may not accept statements as true "subject to check" unless good cause is shown. In those limited instances, the witness may do so only if the statement can be easily and quickly verified. If a witness is permitted to take a statement as true subject to check, to avoid any ambiguity or confusion in the record, the witness must verify the veracity of the statement before he/she is excused from the witness stand. A short break will be provided to allow the witness to verify the information.

**Pre-filed Testimony and Exhibits**

As we indicated during the procedural conference, all pre-filed testimony and exhibits will be entered into the evidentiary record as exhibits. Pre-filed testimony will be entered in as exhibits to provide the Commission with a view of the parties' positions prior to the commencement of settlement discussions.

We will circulate an exhibit list to the parties that includes the pre-filed testimony and exhibits. Each party that filed testimony and exhibits is required to review the document and must advise us by 4:30 p.m. Thursday, April 13, 2023, either of any corrections that must be made to the spreadsheet to render it accurate, or, that your party's data is accurate. Once we have received feedback from the parties, we will assign hearing numbers and circulate an exhibit list for the pre-filed exhibits.

Counsel must bring copies of pre-filed exhibits for their own reference and sufficient copies of any document needed for cross examination of witnesses (see also the below paragraph).

**New Exhibits Introduced During Cross Examination**

If a party introduces an exhibit during the hearing that has not been pre-filed, the party must, at the time of introduction: 1) provide hard copies to the administrative law judges (ALJs); 2) provide hard copies to the witnesses being cross-examined; 3) provide hard copies to all interested parties participating in the hearing. To save paper, the hard-copy exhibits should be double-sided. At the conclusion of the hearing, a true electronic copy of the exhibit must be filed with the Secretary by the party introducing the exhibit and

labelled in accordance with the hearing exhibit number assigned during the hearing.

**Motions to Strike or Exclude Testimony or Exhibits**

If any party objects to the introduction of any testimony and/or an exhibit and wishes to move to strike or exclude testimony or exhibits, the motion must be made during the hearing, at the time the testimony or exhibit is offered. At the ALJs' discretion, motions may be resolved immediately, or a decision may be reserved until after the hearing. If a decision on the motion is reserved, the ALJs will establish deadlines for the submission of written arguments at the conclusion of the hearing. Any objection to testimony or an exhibit that is not raised at the hearing will be considered waived.

**Procedural Conference**

We intend to hold a procedural conference the afternoon of Tuesday, April 11, 2023. At the conference parties may request any clarification of these procedures or to pose questions. Parties are encouraged to present any questions in writing by close of business, Monday, April 10, 2023. We will circulate a meeting invitation to the parties with the details of the conference.

(Signed)

JAMES A. COSTELLO

(Signed)

ASHLEY MORENO