

Filed Session of March 21, 2007
Approved as Recommended
and so Ordered
by the Commission

JACLYN A. BRILLING
Secretary

Issued and Effective April 2, 2007

STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

March 7, 2007

TO: THE COMMISSION

FROM: OFFICE OF CONSUMER SERVICES

SUBJECT: CASE 06-E-1535 – Petition of Avalon Bay Communities, Inc. to submeter electricity at 27 Memorial Highway, New Rochelle, New York, located in the territory of Consolidated Edison Company of New York, Inc., filed in C 26998.

RECOMMENDATION: It is recommended that the Commission approve the petition to submeter.

The Application

By letter dated December 13, 2006, Solar Electric Systems, Inc. (Applicant), on behalf of Avalon Bay Communities, Inc. (Owner) requested permission to submeter electricity at 27 Memorial Highway (Memorial Highway), New Rochelle, New York. The newly constructed residential building will contain 588 rental units. The building will be master-metered by Consolidated Edison Company of New York, Inc. (Con Edison) and each unit will be submetered.

In accordance with the State Administrative Procedure Act (SAPA) §202(1), the petition was noticed in the State Register on December 20, 2006. The comment period expired on February 26, 2007. No comments were received.

Commission Approval Required

The petition involves the submetering of electricity at a new, master-metered residential rental building owned or operated by a private or governmental entity, and requires Commission approval in accordance with 16 NYCRR §96.2(c).

The Submetering Plan

Electric usage for the building will be measured by a utility master-meter. Each unit's electric consumption will be monitored by Quadlogic Control Corporation's Mini Closet-5 meter system, which, according to the manufacturer, meets or exceeds standards of the American National Standards Institute Code for Electric Metering (ANSI C- 12) for reliability and accuracy.

A. Benefits of Submetering

The Applicant claims that the economic benefit of submetering is the elimination of meter rooms and additional wiring which will reduce costs and provide for more usable space. Data from the meters will be collected through a Scan Transponder operated by Quadlogic's computer system which will also reduce billing errors due to manual readings. The building will be master-metered at a single point and billed at the Con Edison residential redistribution rate rather than the more costly directly metered residential rate. In addition, according to the Applicant, the installation of submetering will create an opportunity to promote energy conservation and further reduce energy consumption.

B. Submetered Rates

The Applicant states that in no case will a tenant be billed at a rate greater than Con Edison's residential rate for directly metered customers. Electric bills for each unit will be rendered by Quadlogic based on monthly readings of each unit's submeter. The electric consumption data will be collected on an hourly basis and will be retained for ninety (90) days. Bills will be provided in a plain language format.

C. Tenant Protections and Complaint Procedures

In the event there is a question or complaint regarding electric service provided to a rental unit, a written inquiry by the tenant, including the relief or action requested, would be made to the property manager. The property manager will investigate and provide a written response to the tenant within thirty (30) days of the inquiry or complaint. If dissatisfied, the tenant may request a review of the determination by filing a written protest within fourteen (14) days. The property manager will submit the grievance to an independent arbitrator selected from the American Arbitration Association or equivalent, at no cost to the tenant. The decision of the arbitrator will be provided to the tenant promptly with notice of the arbitration procedures.

If the tenant is dissatisfied with the decision of the arbitrator, either party may file a complaint with the Commission pursuant to the Home Energy Fair Practices Act (HEFPA).¹ According to the Applicant, tenants will not have their electricity disconnected for non-payment of electric charges.

D. Tenant Notification

According to the Applicant, there are no existing residents at Memorial Highway. All prospective tenants will receive full disclosure in the rental lease agreement that the building is submetered, including information on the rate cap, consumer protections, and complaint procedures.

Discussion

The application to submeter at Memorial Highway meets the Commission's requirements for the submetering of a newly constructed master-metered residential building consisting of rental apartment units. Submetering is economically advantageous over direct metering because of reduced wiring and construction costs. In addition, more living space will be available to the residents than if the building was directly metered. The Applicant also states that the submetering system meets or exceeds ANSI C-12

¹ Public Service Law (PSL) Article 2.

standards for accuracy and reliability. The submetering plan provides for a rate cap, residential consumer protections and grievance procedures. All residents will be notified, prior to occupancy, of the Applicant's intention to submeter each apartment.

The Applicant also certifies that information concerning rates, complaint procedures, residential consumer protections and enforcement mechanisms will be available to all prospective apartment tenants, and will be provided in the rental lease. The Applicant will also disclose that a new §53 to the PSL took effect on June 18, 2003, imposing the requirements of PSL Article 2 on any entity that sells or facilitates the sale of electricity to residential customers.²

Recommendation

The submetering proposal, as described in the application, appears to be adequate and reasonable, and is in compliance with applicable Commission regulations. It is, therefore, recommended that the Commission approve the submetering of electricity at 27 Memorial Highway, New Rochelle, New York³ and that the case be closed.

Respectfully submitted,

HONOR MARIE KENNEDY
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Office of Consumer Services

² Prior to the amendment of HEFPA by addition of PSL §53, HEFPA only applied to the provision of residential service by natural gas, electric or steam corporations and municipalities.

³ A management or ownership change would not affect this approval.

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