STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 03-G-1671 – 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

NOTICE SEEKING COMMENT ON GAS EFFICIENCY PROGRAM FOR CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. FOR 2007-08 HEATING SEASON

(Issued March 27, 2007)

This Notice seeks comment on the attached Department of Public Service Staff Position Paper (Position Paper), which proposes that Consolidated Edison Company of New York, Inc. (Con Edison) be required to file a plan for a gas efficiency program by June 1, 2007 in order that such a program be implemented in time for the 2007-08 heating season. The Position Paper proposes that the 2007-08 gas efficiency plan be a transitional, "bridging" program for one year only, until such time as a plan to be developed in the pending Con Edison gas rate case, Case 06-G-1332, can be put in place. Staff proposes that the program be funded at a level of $14 million, which it proposes be collected through a temporary surcharge to gas rates, independent of whatever rate determinations are made in Case 06-G-1332. Staff further proposes that Con Edison be made whole for any lost revenue attributable to the one-year program. Staff does not propose that a revenue decoupling mechanism be implemented for the one-year bridging program.

Interested parties are requested to submit an original and five copies of their comments to Jaclyn A. Brilling, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, NY 12223-1350, by April 20, 2007. Those submitting comments should also serve all parties on the Active Parties List for both this case and Case 06-G-1332 by both e-mail and hard copy service, except as follows: any party on the Active

Parties List for either proceeding that prefers to receive only e-mail service may so indicate by sending an e-mail to all other parties on the list requesting electronic service only. Reply comments, which should be filed and served in the same manner, are requested by April 27, 2007. Replies must be strictly limited to matters raised in initial comments that could not otherwise have been anticipated and included in initial comments.

Notice of the proposal set forth in the Staff Position Paper is being published in the New York State Register. Pursuant to the State Administrative Procedure Act, the Commission will accept and consider all comments received until 45 days after the State Register publication; that is, until May 14, 2007. Nevertheless, as noted above, comments are kindly requested by the earlier dates of April 20 and 27 for initial and reply comments, respectively.

(SIGNED) JACLYN A. BRILLING
Secretary

Attachment - Staff Position Paper

STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

CASE 03-G-1671 – 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

POSITION PAPER ON GAS EFFICIENCY PROGRAM FOR 2007-08 HEATING SEASON

Department of Public Service Staff

March 26, 2007

STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

CASE 03-G-1671 – 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

POSITION PAPER ON GAS EFFICIENCY PROGRAM FOR 2007-08 HEATING SEASON

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SUMMARY

In this Position Paper, Department of Public Service Staff proposes that Consolidated Edison Company of New York, Inc. (Con Edison) be required to file a plan for a gas efficiency program by June 1, 2007 in order that such a program be implemented in time for the 2007-08 heating season. We propose that the 2007-08 gas efficiency plan be a transitional, “bridging” program for one year only, until such time as a plan to be developed in the pending Con Ed gas rate case, Case 06-G-1332, can be put in place. Staff further proposes that the program be funded at a level of $14 million, which should be collected through a temporary surcharge to gas rates, independent of whatever rate determinations are made in Case 06-G-1332. In its June 1 plan filing, Con Ed should be free to propose that the 2007-08 program be implemented by the New York State Energy Research and Development Authority (NYSERDA) through a contractual arrangement with Con Ed, by Con Ed itself, or by a combination of NYSERDA and Con Ed programs. Con Ed should be made whole for any lost revenue attributable to the one-year program, and its filing should include a proposed mechanism for such lost revenue recovery. We do not propose that a revenue decoupling mechanism be implemented for this one-year bridging program.

BACKGROUND

Procedural History

The Commission established Con Edison's current three-year gas rate plan in September of 2004.[1] The plan included a gas efficiency pilot program as well as provision for a study of the potential for gas energy efficiency in the Con Edison service territory. That study, entitled "Natural Gas Energy Efficiency Resource Development Potential in Con Edison Service Area," (the Study) was prepared by a group of consultants led by Optimal Energy, Inc. and finalized in March 2006. Following completion of the Study, NYSERDA solicited comments from an advisory group created under the terms of the Commission's rate order. After consideration of those comments and its own analysis of the Study, NYSERDA submitted its recommendations to the Commission based on the Study on June 22, 2006.

The Commission issued a Notice on August 14, 2006, requesting comments on the Study and NYSERDA's recommendations. Comments were received on September 15, 2006 from Con Edison, the New York City Economic Development Corporation (NYCEDC), and jointly from the National Resource Defense Council (NRDC), the Association for Energy Affordability (AEA), and the Pace Energy Project (Pace).

On November 2, 2006, Con Ed filed gas tariff amendments instituting a new major gas rate proceeding, Case 06-G-1332. The Company's filing contemplates an eleven-month suspension, with new rates going into effect on October 1, 2007, immediately after the expiration of the current plan. In the testimony accompanying the rate filing, Con Ed witnesses do not propose a renewed or expanded gas efficiency program for the

[1] Cases 03-G-1671 and 03-S-1672, Consolidated Edison Company of New York, Inc. – Gas and Steam Rates, Order Adopting the Terms of a Joint Proposal (issued and effective September 27, 2004).

future. The DPS Trial Staff team filed testimony on March 16, 2007, in which it proposes an expanded gas efficiency program consistent with the proposal in this position paper.

Gas Efficiency – Pilot, Study, and Comments

Con Ed's current rate plan includes a gas efficiency pilot program funded at $5 million over three years, or approximately $1.66 million per year. That pilot program is being implemented through a number of efficiency programs administered by the New York State Energy Research and Development Authority (NYSERDA) and coordinated with the delivery of electric efficiency programs established under the Systems Benefit Charge (SBC).[2] The pilot program is now in its third year and will terminate at the end of the current rate plan on September 30, 2007. Spending under the pilot program has been allocated 50 percent for low-income gas efficiency programs, 25 percent for other residential gas efficiency programs, and 25 percent for commercial gas efficiency programs. NYSERDA provides quarterly reports regarding the status of the pilot program.

The Study examined both what it called the "economic potential" for efficiency generally as well as the efficiency potential of a specific "Program Scenario." The latter assumed an average gas efficiency budget of $15 million per year over a 5-year period. That level of funding, equal to approximately 1.1 percent of Con Edison's annual revenues for full-service customers in 2004, was chosen to approximate the level of funding dedicated to electric efficiency programs under the SBC program.

[2] See, e.g., Case 05-M-0090, Order Continuing the System Benefits Charge (SBC) and the SBC-Funded Public Benefit Programs (issued and effective December 21, 2005).

The Study concluded that there exists a large "economic efficiency potential" to reduce Con Edison's annual natural gas requirements for its full-service customers by more than 32,000 MDth by 2016, representing 26.5% of Con Edison's expected 2016 requirements. According to the Study, "Theoretically, if all the cost-effective gas efficiency measures are implemented, there would be no load growth during the planning period."[3] However, the authors suggest caution in interpreting and using the analysis because the "economic potential" does not account for market barriers to adoption of efficient technologies or the costs of market intervention strategies to overcome these barriers.

In analyzing the potential of the Program Scenario, the Study considered economic and other barriers to adoption of efficiency measures. The Study's analysis of the Program Scenario concluded that the annual savings would be 1,537 MDth by 2016, representing 1.3% of forecasted 2016 gas requirements. Those results were based upon the assumption that programs would operate for five years; the Study noted that savings by 2016 would be significantly higher if programs were to continue for the full ten years until 2016. According to the Study, the Program Scenario would be highly cost effective. The Study also analyzed lost revenue recovery mechanisms. It concluded that lost revenues could be recovered through a combination of forecasts used in setting future rates, automatic adjustment clauses, or deferral accounting.

Following completion of the Study and evaluation of the advisory group comments, NYSERDA submitted its recommendations to the Commission. NYSERDA recommends that the natural gas efficiency program be extended for Con Edison beyond

[3] Study, p. E-3.

the term of the pilot program, for a total of five years, and funded at a level that makes the program meaningful and effective; that the program should include the residential, commercial and industrial sectors; that all customers (except natural gas vehicle customers) should pay into the program and be eligible to receive incentives under it; that the program should be implemented in conjunction with the current electric SBC program; that the low-income sector should receive special attention; to ensure that it has adequate access to gas efficiency funds; and that lost revenues should be addressed in Con Edison's next rate case. NYSERDA's recommendations were summarized and attached to the Commission Notice seeking further comments.

In their comments, NRDC/AEA/Pace recommend that the Commission move forward quickly with a full-scale gas efficiency program for Con Edison. They agree with NYSERDA that the program include the residential, commercial and industrial sectors and that all customers should pay into the program and receive the benefits from it. NRDC/AEA/Pace believe that there is no basis to exclude transportation service customers from the program. If bills paid by such customers are taken into account, they assert, total customer bills in Con Ed's service territory were $2.9 billion in 2005. NRDC/AEA/Pace recommend that funding for a gas efficiency program be based on 1.1 percent of that total for gas bills, equating to $32 million per year.[4] They recommend that the program be implemented for five years. These parties argue that the Study underestimated the potential for gas efficiency in the residential and low-income

[4] Even without inclusion of the transportation customers, NRDC/AEA/Pace would update the proposed spending level to account for Con Edison's higher level of revenues in 2005; 1.1 percent of that figure would increase the funding to $16 million.

sectors by failing to recognize that many residential customers reside in multi-tenant buildings, classified as “commercial” in the Study. They recommend that low-income customers should receive the same percentage of funding as in the pilot program. They disagree with the conclusion of the Study that lost revenue recovery is not needed if efficiency programs are administered by a third party such as NYSERDA. Instead, they would support lost revenue recovery. Moreover, they advocate for immediate implementation of a gas revenue decoupling mechanism.

NYCEDC supports the $32 million per year funding level proposed by NRDC/AEA/Pace, noting that the Study inappropriately excluded firm transportation volumes. NYCEDC proposes continuation of the same funding percentage for low-income and residential customers that is currently allocated in the Con Edison pilot program. NYCEDC recommends that the issue of revenue decoupling be examined in the context of Con Edison’s next rate case. Finally NYCEDC recommends that the Commission reevaluate whether Con Edison itself should be charged with running the program instead of NYSERDA, noting Con Ed’s “incomparable knowledge of the gas market in its own service territory, customer account expertise, and personnel who have the ability to best involve customers and others.”

Con Edison notes concerns with the Study’s assumptions and methodologies, citing numerous technical shortcomings, and claims that no expansion is warranted based on the results of the Study. Con Edison states that an increase from the current level of spending, $5 million over three years, to $15 million over five years represents a 1500 percent increase, and that NRDC/AEA/Pace and NYCEDC exercise no caution whatsoever in recommending an increase to $32 million a year for five years, a 3,200 percent increase over current spending. The company asserts that the Study inappropriately excluded firm transportation customers but states that interruptible customers should not be included. Con Edison argues that a gas revenue decoupling mechanism should not be included. Finally, Con Edison notes that its gas and electric franchise territories are not identical and therefore electric customers should not be required to fund gas efficiency programs from which they receive no benefit.

DISCUSSION

Staff believes it is imperative to pursue cost-effective opportunities to reduce gas consumption through an expanded gas efficiency program. Given current gas prices, such a program is needed to provide relief to all consumers burdened by the high cost of energy. At the same time, a reduction in gas consumption would provide critically important environmental benefits. Therefore, measures to further gas efficiency should be put in place without undue delay.

We are concerned that, given the schedule inherent in the pending rate case, Case 06-G-1332, any gas efficiency program ordered by the Commission, whether based on a contested record or a negotiated joint proposal, will be approved too late in 2007 for effective implementation before the 2007-08 heating season. We urge the parties in that proceeding to develop a rate plan that will include an expanded gas efficiency program, consistent with the recommendations herein, that could be implemented for 2008-09 and beyond. In the meantime, however, we believe there is a fully-developed record, based upon the Study and comments already received as well as the current pilot program, upon which a 2007-08 program can be ordered by the Commission for implementation earlier than the outcome of Case 06-G-1332. Therefore, we propose separate consideration of a “bridge” gas efficiency plan to cover 2007-08, which should be filed by Con Ed by June 1 of this year. This bridge plan will provide a transition until the results of Case 06-G-1332 can be implemented. The costs of such a plan can be recovered through a surcharge, so as not to interfere with the permanent rates to be implemented in the pending case.

In terms of the size of the program, we support expansion from smaller pilot program to a program that more closely approximates the Program Scenario analyzed by the Study. The reports on the pilot program show an acceleration in the funds committed and benefits realized in the latter stage of the program, revealing a momentum that we believe can continue into a larger program. While we do not necessarily endorse the Study’s findings of the total magnitude of the “economic efficiency potential” in Con Edison’s service territory, the Study does support the view that an expansion beyond the current pilot program is warranted and will produce significant benefits. Based on our review, a program of $14 million annual spending is appropriate.

We arrive at $14 million first by concluding that the Study inappropriately excluded the efficiency potential of firm residential, commercial and industrial transportation customers. On this point Con Edison agrees. NRDC/AEA/Pace and NYCEDC claim that transportation volumes account for almost one-half of Con Edison’s throughput. However, most of that volume represents interruptible transportation for electric generation. The Study’s examination of gas efficiency potential was limited to the residential, commercial and industrial sectors and purposefully excluded the electric generation sector. Therefore, while it is appropriate to include the gas efficiency potential of firm residential, commercial and industrial transportation, it is not appropriate to include electric generation.

Further, we believe that the Study inappropriately included the gas efficiency potential of interruptible customers. The rates for these customers are based on the value of service, as gas in these markets competes primarily with oil products, and therefore there is no room to include a surcharge to support a gas efficiency program that would in effect, either reduce the competitiveness of gas, or if the price of gas were to remain competitive with the surcharge include, reduce the utility’s revenues. Con Edison concurs that interruptible customers should be excluded. In addition, these are generally larger customers that are sophisticated enough to pursue cost-effective gas conservation opportunities on their own.

Modifying the $15 million per year program scenario to include firm transportation customers and to exclude interruptible sales and transportation customers results in somewhat offsetting impacts. For each of the past three years, 2004–2006, interruptible volumes have exceeded firm transportation volumes. Consequently, the adjusted program scenario funding level should be reduced slightly, to $14 million per year, based on data for these three years.

Our proposed funding level of $14 million represents a rejection of the adjustment proposed by NRDC/AEA/Pace and NYCEDC based on a change in gas commodity costs. Gas prices vary depending on market conditions and go up and down. For example, Con Edison’s gas costs in the winter of 2006 were lower than in the winter of 2005, and an update to the most recent data would yield a lower number. Given the volatility in prices, we do not support updating based on commodity prices unless there is a fundamental changes in prices. Therefore, we are proposing no adjustment for changes in gas commodity costs, but note that such an adjustment would not significantly change the funding level.

The current allocation of program funds among the low-income, residential and commercial/industrial sectors seems reasonable. NRDC/AEA/Pace and NYCEDC all recommend continuation of the current percentage allocation percentage of funding to low-income customers, and no comments were made suggesting a change in the current funding allocation for the remaining market sectors. Therefore, Staff proposes that the expanded program employ the same percentage allocation of funds among the low-income, other residential and commercial/industrial market sectors as the pilot program.

While coordination of program delivery with the electric SBC programs administered by NYSERDA has the advantages noted in the Study, the parties have raised valid arguments in favor of some program implementation by Con Edison. For example, the Company notes that its gas and electric service territories are not identical, so that a complete combination of the gas and electric programs could create a mismatch between customers paying in and those receiving benefits. NYCEDC makes a reasonable argument that an expanded program could benefit from the Company’s own resources and expertise. Therefore, we would consider specific proposals for utility-based program aspects.

We support the view that Con Edison should be kept whole for revenue losses attributable to the gas efficiency program for reasons of fairness and alignment of incentives. None of the parties submitting comments proposes that Con Edison should not be made whole for lost revenues due to a reduction in gas deliveries that result from a gas efficiency program, and Staff concurs. Therefore, the company should propose a mechanism for lost revenue recovery in its June 1 plan filing.

Finally, NRDC/AEA/Pace go further to recommend adoption of a revenue decoupling mechanism. While those parties have not detailed the workings of such a mechanism, a revenue decoupling mechanism is generally considered to be one which would make the company whole for losses due to any reason, including changes in the economic cycle, management decisions, etc. Staff believes that there is a clear distinction between a mechanism that would make the company whole for lost revenues attributable to the gas efficiency program, as discussed above, and a broader adjustment that would go beyond what is needed to remove barriers to gas efficiency programs. Therefore, we do not propose a revenue decoupling mechanism here. Moreover, given the transitional nature of the program we recommend here, we do not believe this “bridge” plan is the appropriate vehicle for considering or implementing revenue decoupling.

CONCLUSION

We recommend the Commission direct Consolidated Edison file, by June 1, 2007, a gas efficiency plan for implementation for the 2007-08 heating season only. The plan should be consistent with the discussion in this Position Paper.