

# Herbert E. Hirschfeld, P.E.

*Technical Consulting Specializing in Energy Management & Submetering*

Post Office Box 744  
Glen Cove, New York 11542

RECEIVED  
PUBLIC SERVICE  
COMMISSION  
COMMISS-ALBANY  
OSEC-FILES-ALBANY  
NOV 21 2:17 PM '01

November 21, 2001

Ms. Janet Deixler, Secretary  
New York State Public Service Commission  
Empire State Plaza  
Albany, NY 12223

Ref.: Application to Submeter Electricity at Fairfield Towers Condominiums, Brooklyn, NY

Dear Ms. Deixler:

I am submitting this application to submeter electricity at Fairfield Towers, 1019 Van Siclen Avenue, Brooklyn, New York.

Fairfield Towers is a nineteen (19) building, master metered, residential condominium complex located in Brooklyn near the intersection of the Belt Parkway and Pennsylvania Avenue. This residential complex consists of eleven (11) mid-rise eight or nine story towers and eight (8) two story garden apartment buildings and contains a total of 1,150 apartments. The apartments are occupied by either condominium owners or rent stabilized or fair market renters residing in sponsor owned apartments. These rent stabilized apartments are under the jurisdiction of the New York State Division of Housing and Community Renewal (DHCR).

Each of the mid rise towers has its own boiler room and produces steam for heating and domestic hot water by burning either #2 oil or natural gas. The garden apartment buildings share a common boiler room. Apartment cooling is facilitated by individual air conditioners mounted in wall sleeves. Each apartment contains an original, dedicated, two phase circuit breaker panel. There are no individual dedicated fuses or circuit breakers for each apartment in the basement or electric room. Electricity is supplied by Con Edison under rate schedule SC-8, Multiple Dwelling.

Fairfield Towers, in an effort to reduce electricity usage and peak demand, has decided to submeter electricity and applied for incentives currently available from the New York State Energy Research and Development Authority (NYSERDA) under its Residential Customized Energy Management (CEM) Program. Prior to submittal of the CEM application, Fairfield Towers participated in the NYSERDA Submetering in Multifamily Buildings Program which included the preparation of a technical/economic feasibility study and an explanation of the PSC regulations to submeter electricity.

Estimates received from the building construction consultant and subcontractors indicate that the direct metering option would cost substantially more than submetering. Con Edison utility rates for direct metering the apartment units @ SC-1 are approximately 30% higher than the current master metered bulk rate @ SC-8, which would be maintained under a submetering conversion. Additionally, only the submetering option would enable Fairfield Towers to take advantage of electric deregulation in negotiating with ESCOs.

The Board of Mangers shall conduct a vote with regard to the matter of submetering. An apartment owners meeting and canvass shall be conducted and the matter of submetering shall proceed provided that a majority votes in favor of submetering, thus meeting the PSC requirement of more than 50% of voting shareholders (or apartment owners) in favor in a master metered cooperative or condominium. In so far as at least one nonshareholder is expected to be opposed to submetering and DHCR requires PSC approval to submeter rent stabilized apartments, this application is being submitted to the PSC. All resident notification shall include the address and telephone number of the nearest PSC office in the event residents have questions or require additional information.

Residents living in fair market apartments will only be charged for their electricity upon the expiration of their leases, unless there are provisions in place in the existing leases to permit charging separately for apartment electrical use at the time that submetering is implemented to all residents. Upon the expiration of the lease a new rent shall be established between the landlord (sponsor) and individual tenant, a process which is currently in place.

Residents living in rent stabilized apartments will have their rents reduced the exact amount as guidelines shall permit by the New York State Division of Housing and Community Renewal for buildings undergoing a direct metering conversion (as there are no existing guidelines for submetering) and be charged for their apartment electrical use. These rent adjustments are currently being re-evaluated by DHCR as Operational Bulletin 96-2 was voided by the New York State Supreme Court. Until such time that DHCR establishes a new rent adjustment, the sponsor shall continue to pay the electricity charges for these apartments under submetering and the rent stabilized tenants shall continue to pay their rents in a manner that existed prior to submetering.

Condominium residents shall have their maintenance charges reduced and their additional charges for air conditioners and other appliances eliminated once the submetering process is initiated, in accordance with criteria established by the corporation's governing Board of Directors.

In no case will any apartment, regardless of category, be charged more for electricity than if the apartment were directly metered. Failure to pay for electricity in rental apartments will be treated as the same as failure to pay rent and the landlord will have the same rights as if the rent were not paid; however, in no case will electricity be shut down in an apartment for failure to pay for electricity. Electricity shut down in any apartment shall only be done to accommodate a repair or building emergency requirement and be for temporary duration.

Studies conducted throughout New York State have documented the conservation benefit of electrical submetering demonstrating savings ranging between 18%-26% annually (New York State Energy Research and Development Authority (NYSERDA) report 86-8, entitled "Demonstration of New Submetering Technologies", dated October 1986).

I am providing the following information in response to the State of New York Public Service Commission (PSC) requirements as stipulated in Case 26998, approved July 7, 1988 under Section 96.2, sub-section H (Category: master metered residential cooperative or condominium where one or more tenants are non-shareholders), item 2 and sub-section B, items 1 through 7 and revised in accordance with Case 95-E-1026, issued and effective September 20, 1996:

- (1) The economic advantages of submetering over direct metering include:
  - (a) The SC-1 direct meter rate is approximately 30% greater than the master metered and submetered SC-8 rate.
  - (b) The cost of a direct metering retrofit would exceed a submetering retrofit by a substantial amount at Fairfield Towers.
  - (c) Under electricity deregulation electricity will likely be available at a lower cost to a submetered residential building than a directly metered one.

- (2) The submetering system to be installed at Fairfield Towers shall meet the requirements as stipulated by NYSERDA for participation in their CEM Program. These requirements include compliance to the most current standards established by the American National Standard Code for Electric Metering (ANSI C12-1).

The submetering equipment selected by Fairfield Towers shall be a metering system with either wireless or power-line carrier (PLC) communications. This type equipment has been successfully utilized in numerous residential buildings which have participated in projects conducted by this Consultant under such programs as the Con Edison Residential Submetering Program.

The PLC type or wireless submetering system will minimize equipment installation costs, minimize resident inconvenience, and simplify the meter reading and bill rendering process. The PLC or wireless technique permits the remote reading of apartment submeters without the need for additional expensive building wiring and without the requirement of apartment access to read each submeter.

It should be noted that the selected submetering system purchased by Fairfield Towers shall be required to pass the qualification and meter accuracy testing as conducted under the supervision of NYSERDA as a prerequisite to obtaining the CEM incentive at the conclusion of this installation.

It is also management's intention to provide shadow billing to the residents prior to actual billing in order to familiarize residents with electric costs predicated on their individual usage patterns.

(3) To establish the monthly cost of electricity (in cents per kWh) to the tenants, we shall divide the total building Con Edison (and ESCO, if applicable) charges (computed at the SC-8 rate) by the total building consumption (kWh) as measured by Con Edison and/or ESCO. The monthly cost of electricity to the tenants shall also include a monthly billing charge as rendered to the building owner by the meter reading/bill rendering company providing this service. However, in no case shall the tenants be charged at a rate which exceeds the Con Edison residential rate for direct metering (SC-1).

(4) The Board of Directors and Management are aware that this Consultant was the project manager of the NYSERDA Facilitating Submetering Implementation Program and that the issues of complaint procedures, tenant protections, dispute resolution and grievance procedures are items which must be addressed as part of this application. The procedure proposed for this application is virtually identical to that currently in place at the New York City Department of Housing Preservation and Development (HPD) and amended to substitute an arbitrator from the American Arbitration Association (or equivalent) for the Assistant Commissioner of HPD. The procedure is as outlined:

Regarding the resolution of complaints involving electric service, the resident shall first present to the managing agent, a written complaint which may be in letter form, including the action or relief requested. The managing agent shall investigate and respond to the complaint in writing within ten days of the receipt of the complaint. The managing agent intends to utilize the submetering company and/or its submetering consultant, where appropriate, to assist in the investigation of the complaint. The complainant shall be advised of the disposition of the complaint and the reasons therefore.

If the complainant is dissatisfied with the managing agent's response, he or she may request a review of said determination by filing a written protest within fourteen days from the date of the response to the managing agent. No particular form of protest is required. Upon receipt of the protest, the matter shall be turned over to a grievance arbitrator (selected from the American Arbitration Association or equivalent) for review of the complaint and the response by management. If necessary, an inspection of the meter may be ordered and/or a conference may be scheduled with management and the complainant. The arbitrator shall within a reasonable period of time prepare a written report containing a recommended disposition of the matter. A copy of this report shall be sent to both management and the complainant and be binding to both parties.

(5) All residents of Fairfield Towers shall be notified in writing by the building manager of the owner's proposal to submeter electricity with applicable PSC information included. An apartment owner (shareholder) vote shall be conducted in accordance with PSC regulations.

(6) Refer to item (4) above.

(7) The method of rate calculation, the rate cap, complaint procedures, tenant protections, and the enforcement mechanism shall be incorporated in plain language into a rider to be added to all leases governing submetered apartments.

(8) All rent stabilized and/or rent controlled apartments shall receive a rent reduction which shall meet the guidelines established by the New York State Division of Housing and Community Renewal (DHCR). Until such a guideline is established, the sponsor shall continue to pay for the electricity in these apartments.

I appreciate your time and attention with regard to this matter. Should you have any questions or require any additional information, please do not hesitate to contact me. Thank you.

Very truly yours,



Herbert E. Hirschfeld, P.E.  
(As Agent for Fairfield Towers Condominium Owners Corp.)

cc:  
Paul Emerson, NYS Public Service Commission  
LuAnn Scherer, NYS PSC  
Bill Murphy, Fairfield Towers

File: PSCAp Fairfield

01-E-1539