

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

**CASE 08-E-0539 – 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**

Reply Brief of
Pace Energy and Climate Center

DECEMBER 8, 2008

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I. PRELIMINARY STATEMENT

The Pace Energy and Climate Center (“Pace”) intervened in this proceeding to offer testimony on the issue of actions that Consolidated Edison Company of New York, Inc. (“Con Edison”) can take to encourage development of Distributed Generation (“DG”) and, in particular, Combined Heat and Power (“CHP”) within its service territory. In this reply brief, Pace will respond to other parties on this issue in the Section entitled “Changes to Encourage CHP/DG/Solar” in Subsection I of Section XI, “Other Issues.” In addition, Pace will address the submetering proposal offered by Department of Public Service Staff (“Staff”) in this proceeding, given the energy efficiency and environmental implications of Staff’s submetering recommendation.

X. REVENUE ALLOCATION/RATE DESIGN

F. Submetering

1. SC 8 and SC 12 Customers

Nearly half a million residential units served by Con Edison have electrical usage that is not metered to capture usage by individual units. *Tr. 3592*. Staff offered a proposal in this proceeding whereby all multi-tenanted residential buildings served under SC 8 and SC 12 not currently submetered would be required within four years to be submetered. *Tr. 3590*. A building failing to meet the four-year deadline would be transferred to a more expensive rate, thereby providing an economic incentive to building owners to convert to submetering. Exceptions would be allowed where the building owner could establish that submetering would be “cost prohibitive.” *Tr. 3596*. Staff submits that its proposal would encourage more efficient use of energy because tenants

1 would be billed on actual consumption and thus would be given the necessary
2 information to “monitor and reduce energy consumption.” *Tr. 3591*. Under Staff’s
3 proposal, the Company would be required to submit a proposed submetering program
4 within 60 days after the Commission’s order in this proceeding.¹

5 Con Edison opposes Staff’s proposal on a number of grounds: (1) because the
6 Staff proposal was “couched in terms of energy efficiency,” it should be considered in the
7 Energy Efficiency Portfolio Standard (“EEPS”) proceeding, Case 07-M-0548;² (2) there
8 is no basis for assuming that tenants, if supplied with usage information, will change their
9 behavior to reduce energy consumption,³ and (3) where extensive rewiring is required for
10 the purpose of allowing a submeter to measure specific unit usage, “the effect of rewiring
11 *may* be to increase building electrical load” inasmuch as bringing the building up to code
12 would enable tenants “to use additional appliances and electronics, such as plasma
13 televisions.”⁴ The Company described Staff’s proposal as “mandatory submetering,”
14 which “would run roughshod over the views of tenants, landlords, cooperative
15 corporations and condominiums.”⁵

16 It is curious that the Company derides Staff’s premise – that customers receiving
17 price signals through their energy bills which show their actual energy usage will likely

¹ Staff Initial Brief at p. 281.

² Con Edison Initial Brief at p. 462, note 218.

³ *Id.* at p. 462.

⁴ *Id.*, citing *Tr. 900* (emphasis added).

⁵ *Id.* at p. 463.

1 reduce energy consumption – as being supported by “no creditable evidence.”⁶ Yet at the
2 same time, Con Edison offers no evidence to support its contention that “the effect of
3 rewiring *may* be to increase building electrical load.”⁷ Staff’s position, for its part, is
4 intuitively sound, and has strong support in Commission precedent. Ten months ago, the
5 Commission issued an order that included the following findings:

- 6 • “Individuals have little incentive to reduce their consumption unless they are
7 aware of their kilowatt hour (kWh) consumption and are responsible for the
8 actual costs of that consumption.”⁸
- 9 • “Individual metering of living units directly addresses this problem and is
10 critical to meeting the goal of reducing New York State’s demand for electric
11 power by 15% of forecasted levels by 2015.”⁹
- 12 • “Individual metering provides price signals to consumers regarding their
13 consumption of electricity, thereby encouraging the conscientious and efficient
14 use of energy in their residences. It also minimizes the environmental impact
15 electric production has on our environment.”¹⁰
- 16 • The Commission’s policy since 1976 “to require the individual metering of
17 residential living units . . . encourages the efficient use of increasingly scarce
18 and costly energy resources.”¹¹
- 19 • “[T]he ultimate users of electricity should individually pay bills which are
20 directly related to their consumption.”¹²

⁶ Id. at p. 462. As evidence in support of its proposal, Staff cites research conducted by NYSERDA showing that the installation of submeters in master metered buildings reduced electricity consumption in the individual units between 18 and 26 percent. Staff Initial Brief at p. 280, citing tr. 3595.

⁷ Id. (emphasis added).

⁸ Case 07-E-0820, New York University – Petition to Remove Individual Apartment Meters, Order Denying Petition for Waiver (issued February 21, 2008), p. 3

⁹ Id.

¹⁰ Id.

¹¹ Id. at p. 2.

¹² Id. at p. 3.

- 1 • These are “important public policy considerations,” and argue for enabling
2 individual customers “to participate in the State’s effort to reduce electric
3 consumption and protect our environment.”¹³
4

5 Con Edison’s challenge to the premise underlying Staff’s proposal – that
6 customers must be given price signals tied to their individual consumption in order to
7 have an incentive to conserve – flies in the face of the Commission’s clear findings on
8 this issue. It is thus unnecessary to engage in further debate about the wisdom of public
9 policy favoring individual metering of residential units in buildings, or the impact of that
10 policy in promoting energy efficiency. Given the above findings by the Commission,
11 Con Edison has the burden of demonstrating through specific evidence the circumstances
12 under which installation of submetering would lead to *higher* energy consumption. In the
13 absence of such evidence, Pace urges the Commission to adopt Staff’s proposal, which is
14 fully consistent with the Commission’s long-standing policy favoring submetering of
15 residential units in buildings. Con Edison’s suggestion that this proposal be referred to
16 the EEPS proceeding should be rejected. This issue is specific to Con Edison, and the
17 EEPS proceeding should not be burdened with this particular issue given that Con Edison
18 appears to be standing alone in challenging the concept that submetering promotes more
19 efficient use of energy.

20 **XI. OTHER ISSUES**

21 **I. Changes to Encourage CHP/DG/Solar**

22 1. Responses to Con Edison’s Initial Brief

¹³ Id. at p. 4.

1 Con Edison's initial brief on this issue reiterates the points made in its testimony,
2 to which Pace responded in its initial brief. The one new point that Con Edison makes is
3 to suggest yet a third proceeding to which this issue should be referred, in addition to the
4 two other proceedings (EEPS and the Standard Interconnection Requirements (SIR)
5 proceedings) cited in Con Edison's testimony. Specifically, Con Edison suggests that this
6 issue should be referred to the Renewable Portfolio Standards (RPS) proceeding
7 (Case 03-E-0188) inasmuch as the RPS proceeding is considering "whether a specific
8 goal should be adopted for solar power and whether solar could be used in the New York
9 City metropolitan area to target particular network locations in need of load relief."¹⁴ It is
10 unfortunate that Con Edison does not devote the same level of creativity in addressing the
11 substantive issue as it seems to devote to the effort of identifying other proceedings to
12 which the substantive issue should be referred.

13 The issues currently being considered by the Commission in the RPS proceeding
14 are unrelated to Pace's proposal with respect to adoption of an incentive program that
15 would provide monetary payments to Con Edison for facilitating the installation of CHP
16 within its service territory. Pace's proposal was designed in recognition of Con Edison's
17 familiarity with its customer base, and the steps that Con Edison can reasonably be
18 expected to play to take a more proactive role in facilitating the installation of CHP
19 facilities within its service territory. In Pace's view, providing Con Edison with an
20 incentive payment is an effective tool to promote this objective. Given that CHP is not
21 currently the subject of a procurement obligation under the RPS scheme, it is difficult to
22 see how the RPS proceeding would be a more appropriate forum for addressing Pace's

¹⁴ Con Edison Initial Brief at p. 520.

1 proposal. Moreover, Pace is proposing that its incentive payments be funded as part of
2 Con Edison's general revenue requirement, not from RPS-related funding.

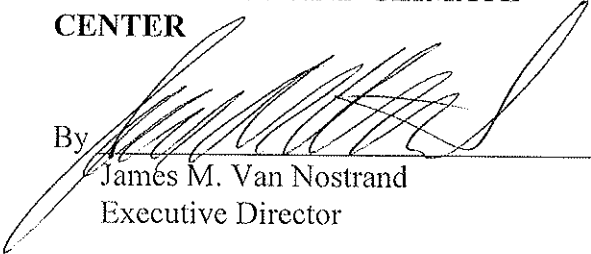
3 2. Responses to Other Parties' Initial Briefs

4 Pace supports the following recommendations from the initial brief of Joint
5 Supporters:

- 6 • Con Edison should develop a simplified application process for micro-CHP
7 systems (25 kW or less), given that these systems are largely standardized and
8 do not require the same level of review as custom installations.¹⁵
- 9 • Con Edison should interpret Rider U in a manner that permits DG/CHP to be
10 included in the program.¹⁶ Contrary to previous practice, Con Edison is now
11 interpreting its General Rules to effectively preclude the participation of
12 DG/CHP in the program.¹⁷ Generating facilities such as DG/CHP that are
13 other than emergency generators and that meet the applicable air standards
14 should be eligible to participate in the program.

15 Respectfully submitted this 8th day of December, 2008.

16 **PACE ENERGY AND CLIMATE**
17 **CENTER**

18
19
20 By 
21 James M. Van Nostrand
22 Executive Director

¹⁵ Joint Supporters Initial Brief at pp. 3-4.

¹⁶ Id. at p. 4.

¹⁷ In implementing the definition of "load reduction" under Rider U, Con Edison now interprets "load *ordinarily* supplied by the Company" in a manner that precludes participation of DG/CHP in the program.