



Enver Acevedo
Senior Attorney
Law Department
Consolidated Edison Company of New York, Inc.
4 Irving Place, Room 1815-S, New York NY 10003
Tel.: 212-460-3762 Fax: 212-677-5850
Email: acevedoe@coned.com

May 7, 2008

VIA EXPRESS MAIL

Honorable Jaclyn A. Brillling
Secretary
State of New York
Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: Case 07-E-0949 – Proceeding on Motion of the Commission as to
the Rates, Charges, Rules and Regulations of Orange and
Rockland Utilities, Inc. for Electric Service

Dear Secretary Brillling:

In accordance with Judge Lynch's Ruling on Schedule issued April 22, 2008 in the above-referenced proceeding, on April 30, 2008, Orange and Rockland Utilities, Inc. ("Orange and Rockland" or the "Company"), Department of Public Service Staff ("Staff"), Retail Energy Supply Association ("RESA"), Small Customer Marketer Coalition ("SCMC"), and County of Rockland ("County") filed Initial Statements in Support of or in Opposition to the April 18, 2008 Joint Proposal ("Joint Proposal"). In addition, the Consumer Protection Board ("CPB"), which was not a signatory to the Joint Proposal, submitted a statement to highlight some of the Joint Proposal's pro-consumer provisions. In this letter, Orange and Rockland replies to certain assertions and arguments contained in the Initial Statements filed by the County and RESA.¹ The limited extent of the Company's Reply Statement bears witness to the minimal opposition to the Joint Proposal.

County of Rockland

The County's Statement in Opposition to the Joint Proposal raises several objections to the Joint Proposal, none of which warrants rejection of or revision to the Joint Proposal. While acknowledging that the Company has not increased its electric base rates since 1993, the County nevertheless argues that the current economic conditions should preclude the Company from raising its rates. The County does not identify costs that could be avoided, but instead proposes delaying recovery of costs properly borne by current customers. Our experience is that there is never a favorable time to implement rate increases. Delaying recovery raises costs to consumers over the long term. Delaying recovery also shifts costs away from current customers, who directly benefit

¹ In its Initial Statement, SCMC adopted the positions set forth in the Initial Statement submitted by RESA. Accordingly, any response by the Company to RESA should be deemed to apply equally to SCMC.

from the initiatives in the Joint Proposal, onto future customers, who may be more remote from those benefits.

No one can deny that, given the inflation the economy has experienced in the 15 years since the last delivery rate increase, the relative real cost of delivery has declined substantially over the period. Customers, moreover, have not only seen a decline in the real cost of delivery, they have also experienced higher levels of service, prime examples being the Company's improvements in electric service reliability and customer service. Providing such service comes at a cost. As explained in its Initial Statement, Orange and Rockland has worked hard at balancing the objective of keeping rates as low as practical, with the need to maintain and expand its reliable energy infrastructure.

Nothing in the Company's operations, which are consistent with a utility with a deep and continuing commitment to the community and its customers, would point to a different result. The rate increase incorporated in the Joint Proposal supports future investment in the electric infrastructure necessary to maintain a secure, safe, and reliable electric distribution system, allows the Company to phase-in needed additional employees over the three-year term of the Electric Rate Plan, and reflects the current costs of employee benefits.

The Joint Proposal strikes an appropriate balance of the factors to be weighed in developing an acceptable rate framework. The Joint Proposal contains numerous provisions that address customers' interests. For example, the Joint Proposal protects customers by limiting the Company's recovery of capital expenditures to the lower of the levels provided in rates or actual net plant additions, whichever is less. The Company is required to submit periodic reports on its capital expenditures and environmental remediation activities. As noted and supported by the County (p. 7), the Company has moderated the rate increases for certain lighting service classifications. By levelizing the rate increase over three years, the Company has acted to mitigate its impact on customers. Finally, by establishing rates for a three-year period, the Joint Proposal provides customers with rate certainty during a time of increasing economic uncertainty. In light of these factors, and considered against the backdrop of all the provisions contained in the Joint Proposal, the County's criticism of the rate increase - - the Company's first in 15 years - - simply is not persuasive.

The County specifically addresses the Joint Proposal's treatment of costs associated with remediation of the Company's former manufactured gas plant ("MGP") sites. The County states (p. 6) that the amortization schedule for such costs should be extended further so as to parallel more closely the period over which the benefits of site remediation will be realized. The County, however, does not offer a specific amortization schedule. Tellingly, other observations offered by the County in its Initial Statement serve to undercut its criticism. The County acknowledges (p. 5) that the Joint Proposal's extension of the amortization period for these costs from three to five years "is an improvement," and that "a significantly different schedule would not result if the issue were litigated." Moreover, the County recognizes that "the deferral of recovery comes with the cost of carrying the deferred charges and those carrying costs ultimately must also be paid." The County's call for an extended amortization period also runs counter to the State's stated goal of remediating former MGP sites efficiently and expeditiously.

Orange and Rockland would note that the County is not uniformly opposed to the Joint Proposal. As noted above, the County supports the Company's rate mitigation efforts. The County also states (p. 9) that it "is cautiously supportive of the Joint Proposal's provision for funding the Company's Energy Efficiency Plan, pending review of the details of the Plan." In addition, the County supports (pp. 9-10) the implementation of a revenue decoupling mechanism ("RDM") for the Company. The County does bemoan (p. 11) the fact that the RDM has "no connection to energy efficiency or conservation." As noted by Section 21 of the Joint Proposal, however, such linkage should occur later this year with the resolution of certain outstanding issues in the Energy Efficiency Portfolio Standard proceeding (Case 07-M-0548).

Retail Energy Supply Association

While RESA generally supports the Joint Proposal, it does criticize (pp. 3-5) the Joint Proposal for failing to expand the universe of Orange and Rockland customers who would be subject to mandatory hourly pricing ("MHP") service. Specifically, RESA would have Orange and Rockland lower the threshold level for MHP service from 1000 kW to 500 kW. In support of its position, RESA refers (p. 5) to the recent Commission decision in the Con Edison electric base rate case² where the threshold for MHP service was lowered from 1500 kW to 500 kW. The circumstances in the Con Edison proceeding, however, were markedly different from those in the present case. Specifically, Con Edison proposed to expand its MHP program to all customers whose maximum demand is greater than 500 kW in any annual period ending September 30. (Con Edison Order, p. 63) Con Edison's revenue requirement included the costs associated with such expansion. Orange and Rockland made no such proposal and the rate increase incorporated in the Joint Proposal certainly fails to account for the costs (e.g., metering upgrades, customer education) associated with such an expansion.

The record in this proceeding is markedly deficient in support for RESA's proposal. Neither RESA, nor any other party to this proceeding, offered testimony in support of expanding the Company's MHP program. Moreover, by expanding its MHP program prior to resolution of the Commission's generic advanced metering infrastructure proceeding,³ the Company risks installing meters and associated equipment that may be inconsistent with the Commission's requirements. Neither the Company nor its customers would be well served by generating such a new source of stranded costs. Therefore, the Commission should decline RESA's invitation to expand the Company's MHP program at this time.

Conclusion

For the reasons set forth above, and in the Company's Initial Statement, the Joint Proposal balances the interests of a variety of parties and produces results within the range that would likely have been achieved through a fully litigated proceeding, reflects agreement by normally adversarial parties, and comports with the Commission's policies. The Commission should approve the Proposal in its entirety.

² Case 07-E-0523, 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, Order Establishing Rates for Electric Service (issued March 25, 2008) ("Con Edison Order").

³ Case 94-E-0952, In the Matter of Competitive Opportunities Regarding Electric Service, Case 00-E-0165, In the Matter of Competitive Metering, and Case 02-M-0514, and Proceeding on Motion of the Commission to Investigate Competitive Metering for Gas Service.

Please contact me if you have any questions regarding this matter.
Please date and time-stamp the enclosed extra copy of this letter and return it to me in the envelope provided.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Enver Acevedo', written in a cursive style.

Enver Acevedo
Senior Attorney

cc: Judge Gerald L. Lynch (via email and express mail)
All Active Parties (via email)