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March 14, 2019

Honorable Kathleen H. Burgess  
Secretary  
New York State Public Service Commission  
3 Empire State Plaza, 19<sup>th</sup> Floor  
Albany, New York 12223

**RE: Case 18-G-0565, Matters Regarding Interruptible Service**

Dear Secretary Burgess:

Consolidated Edison Company of New York, Inc. (“Con Edison” or the “Company”) is filing with the Public Service Commission (the “Commission”) amendments to its Schedule for Gas Service, P.S.C. No. 9 – Gas (the “Gas Tariff”), applicable to its customers in Manhattan and the Bronx, the First and Third Wards of Queens, and certain municipalities in the County of Westchester.

The revised tariff leaves are proposed to become effective on October 1, 2019. Appendix A to this filing letter sets forth the tariff leaves being filed.

**Reason for Filing**

On September 4, 2018, the Company filed tariff changes to its Interruptible Service. Among the changes proposed was to remove the requirement that Interruptible Customers be automatically moved to Firm Service when the Customer incurs two violations during a Winter Period. The Company proposed instead that the Customer remain on Interruptible Service for the remainder of the Winter Period; that the Company impose an additional monetary penalty; that if the Customer desired to continue gas service following the Winter Period, the Customer must formally apply for Firm Service by April 15; and that if the Customer did not formally apply by such date or is not accepted to Firm Service, its gas service would be terminated. In addition, the Company proposed eliminating the provision that Interruptible Customers who do not return the annual affidavit by October 1 would not be eligible for Interruptible Service and added a provision that the Customer would be assessed a violation or strike for the current Winter Period. The Company proposed these tariff modifications in order to maintain the reliability and integrity of the gas system.

On December 14, 2018, the Commission issued an Order in Case 18-G-0565 (the “Order”) related to the Company’s September filing, in which the Commission approved some amendments and rejected other amendments. In Ordering Clause 1, the Commission directed the Company to file a cancellation supplement for all the tariff provisions in its September filing effective on a one day notice, which the Company filed on December 20, 2018, and which became effective on December 21, 2018. In Ordering Clause 2, the Commission directed the Company to file tariff provisions that eliminated the automatic transfer of Interruptible Gas Service Customers with two violations to Firm Service, which the Company filed on December 27, 2018 and which became effective on January 1, 2019.

Ordering Clause 4 of the Order directed the Company to file additional tariff modifications within 90 days of the effective date of the Order to address the concerns described in the body of the Order. The tariff provisions addressing these concerns are discussed below.

The Company met several times with Department of Public Service Staff (“Staff”) and other interested parties to discuss proposed changes to be made in response to the Order.<sup>1</sup>

The Order set forth the following Staff recommendations for consideration and further discussion:

- **Affidavit Requirement:** An Interruptible Gas Service customer is non-compliant with the requirements of its service class when an affidavit is not filed. The customer should immediately commence to pay the applicable unauthorized use charge from the date of required submission and cease on the date of compliance. This should cause the customer to immediately comply because of an almost certain bill increase near the beginning of the winter heating season.
- **IT Customer Firm Service Request:** All Interruptible Gas Service customers that desire Firm Service should be required to make a new service request and not be considered a firm customer until the utility can confirm that service reliability of core heating customers or existing new service requests in-queue will not be harmed. Requests from Interruptible Gas Service customers to become firm customers will be treated as new customers and put at the end of the queue.
- **Efficiency Audit:** An Interruptible Gas Service customer that receives two strikes within a winter heating season shall be required to complete a mandatory efficiency audit at the customer’s expense. The utility will provide contact information for contractors that can provide such audits.
- **Two Interruption Strikes:** An Interruptible Gas Service customer that receives a second strike within a winter heating season shall be required to install a tank monitoring device with automatic notification to both the oil supplier and the utility, or install a remote operating valve, both at the customer’s expense. The Interruptible Gas Service customer that receives a second strike within a winter heating season shall also pay the unauthorized use charge until either of such devices are installed.

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<sup>1</sup> Meetings with Staff and interested parties were held on the following dates: January 29, 2019; February 5, 2019; February 12, 2019; and February 20, 2019.

- Energy Efficiency Surcharge Applicability: All Interruptible Gas Service customers should contribute to, and be eligible for, energy efficiency programs.
- Uniformity Among Downstate Tariff Requirements: National Grid and Con Edison should file a joint petition to address Interruptible Gas Service issues.

The following is a summary of the discussions on the Staff recommendations listed above:

*Affidavit Requirement* - The Company explained that applying the unauthorized use charge for failing to return an affidavit was overly punitive and inapt since the unauthorized usage charge was intended to address a reliability issue (*i.e.*, a customer failing to stop gas usage when an interruption is called) while failing to return an affidavit was an administrative requirement that did not necessarily result in a customer's failure to interrupt. The Company also considered applying the 130% non-compliance charge, but ultimately concluded that this charge was also too punitive. As an alternative to the unauthorized use charge and the non-compliance charge, the Company proposed a flat fee penalty (\$100/day for small customers; \$1,000/day for large customers) that would apply for each day a customer failed to submit an affidavit after the deadline.

*IT Customer Firm Service Request* - The Company explained that its existing application process was consistent with Staff's recommendations. That is, interruptible customers who seek to switch to firm service must submit an application, which must be reviewed and (if the Company has the ability to provide service) approved. Such customers are placed in the queue as their applications are submitted (*i.e.*, they do not skip ahead of applications that are already in-queue). Therefore, no changes to the tariff are required.

*Efficiency Audit* – Staff explained the importance of having interruptible customers, particularly those that incur two strikes, demonstrate that they are operating efficiently.

*Two Interruption Strikes* – The Company explained that the cost of remote operating valves (approximately \$1-2 million) made them prohibitively expensive for most of its interruptible customers. The Company also expressed concern about requiring customers to install tank monitoring devices, as such a requirement would result in the Company unduly inserting itself into the commercial dealings of interruptible customers and their oil suppliers. As an alternative, the Company suggested that customers who violate the requirements of interruptible service should be required to attach a copy of their oil supply contracts (redacted for commercial terms). Representatives of the oil suppliers insisted that interruptible customers should be required to demonstrate clear re-fill provisions in their oil supply contracts. Staff suggested that on-site inspections, which are currently performed by National Grid, could also be an effective tool for Con Edison.

*Energy Efficiency Surcharge Applicability* – Parties representing interruptible customers insisted that this recommendation was unnecessary because interruptible customers were already incentivized to be efficient and were in a better position to determine what, if any, additional efficiency measures might be needed.

*Uniformity Among Downstate Tariff Requirements* – Several parties and Staff expressed concern that differences between National Grid and Con Edison requirements for interruptible service made it difficult and confusing for customers operating in both service territories. National Grid and Con Edison indicated that they would try to align their requirements when possible and alignment made sense. However, both LDCs cautioned that they operate different systems with different numbers and types of interruptible customers. Some of the differences between the two utilities may be entirely appropriate and/or necessary given their differences.

The tariff changes described below reflect the input of Staff and interested parties. In addition to addressing the Staff recommendations listed above, the tariff changes below address the concerns raised by Staff and the interested parties. In particular, the changes described below address the concern that applying a strike for failing to submit an affidavit, or making such customer ineligible for Interruptible Service, is overly punitive. Instead, the Company proposes to apply a flat fee for each day after the deadline that a customer fails to submit an affidavit. Additionally, the tariff changes below address the concern that certain categories of customers could have their gas service terminated for failing to comply with called interruptions. The Company proposes to differentiate between a narrowly defined category of critical care customers and all other customers when determining whether and under what conditions service is terminated.

### **Tariff Changes**

The following is a summary of the proposed changes to the Company's tariff provisions for Interruptible and Off-Peak Firm Service Customers ("Interruptible Customer"):

- Defined Winter Period under the Definitions and Abbreviation Section of the Tariff.
- Eliminated the provision that Interruptible Customers who did not return their annual affidavits were ineligible for Interruptible Service.
- Added a provision that any Interruptible Customer must submit a signed affidavit to the Company by the close of business on October 1 (or by the close of business on the following business day if October 1 falls on a weekend or holiday) or be subject to a daily, flat-fee penalty ("Daily Penalty Charge") from that date until the Company is in receipt of the affidavit or until March 31 (i.e., the end of the Winter Period), whichever is earlier.
- Added a provision that any Interruptible Customer who incurs two violations during the current Winter Period will be subject to a Non-Compliance Charge for all gas consumed from the time of the second violation to the end of the current Winter Period.

- Added a provision that any Interruptible Customer receiving two violations during the current Winter Period will have the option of applying for Firm Service or remaining on Interruptible Service subject to certain conditions. Not meeting those conditions will subject the Customer to the Daily Penalty Charge until the conditions are satisfied.
- Added a definition for Interruptible Critical Care Customer under the Definitions and Abbreviation Section of the Tariff
- Added a provision that any Interruptible Non-Critical Care Customer with two violations in two consecutive winter periods will be directed to immediately apply for Firm Service and if the Company cannot offer the Customer Firm Service its gas service will be terminated at the end of the current Winter Period.
- Added a provision that would make an Interruptible Customer responsible for any restoration of service costs due to a loss of pressure caused by the Customer if so determined by the Public Service Commission after a duly instituted investigation.
- Re-defined the Charge for Unauthorized Use for Interruptible Customers to be equal to the lower of: (i) Two times the sum of the market gas price as determined in accordance with the Company's Operating Procedures plus the applicable Interruptible or Off-Peak Firm transportation rate; or (ii) Nine times the applicable Interruptible or Off-Peak Firm sales rate.
- Re-defined the Non-Compliance Charge for Interruptible Customers to be the difference between: (a) 130% of the lower of the applicable alternate fuel prices, as determined in accordance with the Company's Operating Procedures, or the applicable Interruptible or Off-Peak Firm sales rate; and (b) the applicable Interruptible or Off-Peak Firm sales rate.
- Added the Non-Compliance Charge and a Daily Penalty Charge to the "Other Rates, Charges and Adjustments" sections of the Tariff.
- As a housekeeping item, the Definition and Abbreviation section of the tariff was reformatted.

### **Conclusion and Notice**

The Company requests approval of these changes, which address the concerns raised in the Order. The Company will provide for public notice of the tariff changes proposed in this filing by means of newspaper publication once a week for four consecutive weeks prior to the effective date. Enclosed is a proposed form of Notice of Proposed Rule-Making for publication

in the State Register pursuant to the State Administrative Procedure Act.

Sincerely,

/s/ William A. Atzl, Jr.  
Director  
Rate Engineering Department

Enclosed (Appendix A and SAPA)

PSC No. 9 Gas: List of Tariff Changes

<u>Leaf</u> <u>No</u>	<u>Revision</u> <u>No.</u>	<u>Superseding</u> <u>Revision</u> <u>No.</u>
10	2	0
11	3	2
12	3	2
13	3	2
14	3	2
15	6	4
253	7	5
255	23	22
274	15	14
278	5	3
302	9	7
303.2	17	15
303.3	0	
316	10	8
316.1	8	5
316.2	8	7
316.3	8	7
316.4	7	5
316.5	0	
317	8	6
327	7	5
332	17	15
336	4	2
337	9	8
338	7	5
341	4	2
341.1	8	5
341.2	8	7
341.3	11	9
341.4	5	4
341.5	0	
342	8	5