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March 4, 2019

Hon. Kathleen Burgess
Secretary
State of New York
Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

RE: Case 17-G-0606, Non-Pipe Solutions Tariff Modifications

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 "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.[1]

The revised Tariff Leaves, which are identified below, are filed to become effective on July 1, 2019:

Leaf No.	Revision No.	Superseding No.
155.1	8	6
157	16	14
386.2.2	1	0
386.3	4	3
386.5	2	1

[1] Since Con Edison and Orange and Rockland Utilities, Inc. ("O&R") operate a joint gas portfolio, O&R is making a contemporaneous tariff filing that proposes to update its gas tariff leaves consistent with the changes proposed by Con Edison.

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Reasons for Proposed Tariff Modifications

Background

On September 29, 2017, the Company filed a petition with the Commission seeking approval of its Smart Solutions for Natural Gas Customers Program ("Smart Solutions Program"). The program included a number of initiatives that the Company proposed to meet forecasted requirements of its firm gas customers as a potential alternative to additional firm pipeline capacity and/or pipeline delivered services. The proposal included pursuing a solicitation to the marketplace through a Non-Pipeline Request for Proposal (RFP). The Company subsequently filed on September 28, 2018, a request to recover costs associated with its proposed portfolio of Non-Pipeline Solutions ("NPS Portfolio") selected as a result of its RFP. The NPS Portfolio included demand side measures and supply-side measures, specifically trucked and stored compressed natural gas ("CNG"), trucked and stored liquefied natural gas ("LNG"), and renewable natural gas ("RNG").

In its *Order Approving with Modification the Non-Pipeline Solutions Portfolio*, issued on February 7, 2019, in Case 17-G-0606 ("NPS Order"), the Commission approved the major portion of the NPS Portfolio, i.e., its demand-side solutions. The NPS Order also stated that the Company "should pursue" the supply side solutions, including appropriate engagement with the local affected communities, but did not approve cost recovery and rate treatment. Instead, the Commission stated that the Company's request for cost recovery and rate treatment should be included as projects within the Company's existing capital program and/or included in the Company's current rate filing and/or recovered through the Company's gas adjustment clause.[2]

For the reasons explained below, the Company is proposing that its Gas Tariff be amended to provide for recovery of certain costs associated with trucked and stored CNG and LNG projects that are not currently covered by the definitions of gas costs in the Gas Cost Factor ("GCF") and Daily Delivery Service ("DDS"); and to modify the DDS security provision applicable to Gas Marketers participating in the Purchase of Receivables ("POR") Program. As also explained below, the Company is not at this time proposing to amend its Gas Tariff to provide for the recovery of RNG, but plans to make a proposal at the update stage of its current gas rate proceeding.

Proposed Tariff Changes

Consistent with the NPS Order, the costs of trucked and stored CNG and LNG projects may be recovered through the GCF and DDS instead of included within the Company's existing capital program and/or addressed in the Company's current rate filing.[3] The CNG and LNG projects fit within current gas supply programs conventionally recovered through the Company's GCF. Specifically, the Company recovers the fixed and variable costs of trucked and stored CNG

[2] NPS Order, p.31-33.
[3] NPS Order, p.33.

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through the GCF, and the fixed costs of CNG through DDS Tier 3 – Peaking Service, for the CNG project that was instituted in Rye, NY, for the 2017/2018 and 2018/2019 winter periods.

Accordingly, there is precedent for such recovery of these costs through the GCF and DDS tariffs, especially for projects owned and operated by third parties with whom the Company will contract for service,[4] in contrast to supplies from Company-owned and operated facilities.[5] In addition, presentation and consideration of such projects in the current gas rate proceeding would create uncertainty for projects that are currently under negotiation, and would delay or even potentially be fatal to projects that are needed to meet customer growth in the next two years.[6]

In light of the expanded role for these CNG and LNG projects that the Company is pursuing on an expedited basis, the Company's proposed changes to the GCF tariff leaves are designed to include the costs that the Company may incur in developing a CNG or LNG project within the definition of Fixed Gas Costs. Development costs may include permitting costs; feasibility, engineering and/or operational studies costs; long lead time equipment purchasing costs; costs for interconnection of Company facilities to CNG or LNG project facilities; and property acquisition costs. At this time, it is unclear whether third parties with whom the Company is working would include these development costs in their fixed and/or variable charges, or would separately bill the Company for these costs.

The proposed recovery of development costs, including for an abandoned project, is designed to recognize (i) that the Company plans to materially increase its reliance on CNG and LNG to meet the needs of its firm sales and transportation customers pursuant to the NPS Order; and (ii) the need to act expeditiously to mitigate the current supply constraint and reliably meet the aggregated requirements, on the coldest winter days, of existing and new gas customers (e.g., applicants for firm service who submit by March 15, 2019). Accordingly, the need to expedite these projects may warrant incurring development costs, notwithstanding project uncertainty, including, for example, due to the risk of not obtaining all required permits.[7]

Since Marketers and the firm transportation customers they serve will also benefit from the CNG and LNG supplies through the Company's provision of Daily Delivery Service, the Company is also proposing changes to DDS tariff leaves to capture the Marketers' fair share of costs for these projects and, generally, to otherwise clarify the recovery of CNG and LNG costs through the

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[4] The Company notes that while it anticipates its contracts with third parties to generally be structured with payments via demand and commodity charges, such contracts, as yet to be negotiated or finalized, may include a different payment structure. The proposed tariff language is intended to recover all fixed and variable costs under such contracts.

[5] For example, the Company recovers the fixed costs of its LNG Plant in base rates and the variable costs through the GCF and DDS. The Company reserves the right to seek in the future recovery in rate base of certain project related costs, such as interconnection facilities that it builds and owns.

[6] As part of its ongoing communications with DPS Staff regarding gas supply matters, the Company will keep Staff apprised of its CNG and LNG efforts, including terms and conditions of service, commercial terms, and other costs associated with potential CNG and LNG projects, consistent with any confidentiality requirements.

[7] It is well established that the Commission may allow recovery of prudently incurred costs for a project that a utility has abandoned. *See*, for example, *Abrams v. Pub. Serv. Comm'n of the State of New York*, 67 N.Y. 2d 205, 215-217.

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GCF and DDS.

The Company is not at this time proposing to amend the GCF or DDS tariff leaves to include costs for RNG projects. RNG does not have the same conventional track record as CNG and LNG in terms of recovery through the GCF, especially since there are more unknowns and less certainty with the development and timing of RNG projects that may be developed pursuant to the Smart Solutions initiatives. Moreover, RNG projects are distinguishable from CNG and LNG projects in other respects, including that RNG projects serve a public policy purpose by providing environmental benefits, and are intended to provide annual service over the long term, as distinguished from the shorter term peaking service that these CNG or LNG projects would provide. In addition, RNG projects may entail more significant capital investment (both third party and Company) than trucked and stored CNG and LNG projects. Accordingly, the Company is giving further consideration to such projects and associated cost recovery and rate treatment and plans to address such cost recovery and rate treatment for these projects at the update stage of its current gas rate proceeding.

Finally, as noted above, these CNG and LNG arrangements will become an increasing part of the gas supply portfolio used by Marketers to serve their firm transportation customers during peak periods. Accordingly, in seeking to amend the GCF and DDS tariff leaves to better reflect the costs for these CNG and LNG projects, the Company also reviewed the general adequacy of Marketer security for all DDS costs payable by Marketers, which is under separate consideration as part of the Company's ongoing evaluation of the DDS tariff. As a result of this review, the Company is proposing to modify the security arrangements associated with DDS, consistent with the Marketers' financial responsibility for their share of fixed and variable costs associated with all gas supplies and gas assets used to provide DDS. Specifically, the Company proposes that for Marketers participating in the Company's POR Program, that the Company be permitted to require either a prepayment or additional security to the extent the Company forecasts that the POR payment will be less than all potential amounts that the Marketer may owe for DDS service in any month(s).[8]

<u>Request for Commission Approval to Make This Tariff Filing</u>

Since the effective date of changes to certain parts of the Company's Gas Tariff has been suspended by order of the Commission in the Company's current gas rate proceeding, Case 19-G-0066, the Company is addressing the restriction on gas rate filings set forth in Section 61.10 of the Commission's regulations, which reads as follows:

> Restriction on rate filings. (a) Whenever the effective date of any change to any public utility company's tariff schedule is suspended by order of the commission pending an investigation of that company's revenue requirement, no change of any other tariff schedule in force at the time of the commission's suspension order shall be accepted for filing without the approval of the commission, except as provided by subdivision (c) of

[8] The Company reserves its rights to propose other changes to DDS security requirements in the future.

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this section.

The Company believes that the Commission should accept this tariff filing either because two of the exceptions to the rule apply to this filing or because there is good reason for accepting this filing.

Section 61.10(c)(2) provides an exception to the rate filing restriction for "changes in formula rates, such as the fuel and gas adjustment clause, …." The Gas Cost Factor is the Company's gas adjustment clause and therefore the changes proposed to the GCF fall within this exception. The proposed changes to gas costs recovered through DDS track the changes to the definition of gas costs in the GCF. As to the proposed changes in DDS security requirements, the Company submits that this change falls within the exception in Section 61.10(c)(5), which exempts "changes in terms and conditions of service, other than rates and charges, without substantial revenue or customer bill effects …"

If the Commission finds that one or more of these exceptions do not apply, the Company submits that there remains good reason to accept this filing. As explained above, at the Commission's direction, the Company is pursuing these CNG and LNG projects on an expedited basis pursuant to the NPS Order and the cost recovery vehicle should be clear in order to facilitate implementation of CNG and LNG projects. Moreover, there is Commission precedent for considering changes to the costs recoverable through a gas adjustment mechanism independent of pending changes to the Company's revenue requirement. See, for example, Section B(2)(f) of the Company's current gas rate plan, which permits the Company to seek recovery of FERC-approved charges not already listed or otherwise covered by the then-effective tariff language for the GCF, Monthly Rate Adjustment ("MRA") or Weighted Average Cost of Capacity ("WACOC"), during the term of the rate plan, including during the period when a new rate filing is pending before the Commission.[9]

Conclusion

For all of the foregoing reasons, the Commission should approve the proposed changes to the GCF and DDS. The changes are consistent with and in furtherance of the Company's Commission-endorsed efforts to establish alternatives to reliably meet firm sales and firm transportation customer demand in lieu of acquiring additional firm pipeline capacity rights or contracting for additional delivered services, and will help to mitigate the impact of the current supply constraint and temporary moratorium in Westchester County.

Summary of Proposed Tariff Changes

The following is a summary of Con Edison's proposed changes to its current Gas Tariff, as discussed in the foregoing sections of this filing letter.

[9] The Company further notes that this rate plan provision also states that the tariff amendment may include charges applicable to the period prior to the effective date of the tariff amendment.

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- Modify the definition of Fixed Gas Costs in the GCF to include CNG and LNG project development costs, including for abandoned projects.
- Modify Tier 3 (Peaking Service) of the DDS to recover CNG and LNG project development costs, including costs for abandoned projects, through its demand price.
- Modify the commodity price of Tier 3 – Peaking Service to include the variable costs of trucked and stored LNG and CNG.
- Modify security requirements for DDS service for Marketers participating in the POR Program.
- Make clarifying/housekeeping changes in the GCF and DDS tariff leaves relating to costs associated with CNG and LNG supplies.

Notice

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

Enclosure (SAPA Notice)