Received: 09/30/2022

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September 30, 2022

Honorable Michelle L. Phillips
Secretary
New York State Public Service Commission
Three Empire State Plaza, 19th Floor
Albany, New York 12223-1350

RE: Tariff Proposals to Preclude Dual Market Participants from Receiving Duplicative Compensation in both Wholesale and Retail Markets Concurrently and Other Conforming Changes in Connection with the New York Independent System Operator's Implementation of FERC Order Nos. 2222 and 841

Dear Secretary Phillips:

Consolidated Edison Company of New York, Inc. (the "Company") is filing with the Public Service Commission (the "Commission") amendments to its Schedule for Electricity Service, P.S.C. No. 10 – Electricity (the "Electric Tariff") applicable to its customers in the City of New York and the County of Westchester. The Company is also filing amendments to its Schedule for PASNY Delivery Service, P.S.C. No. 12 – Electricity (the "PASNY Tariff"),[1] applicable to delivery by the Company of power and associated energy to Authority Public Customers under the PASNY Tariff.

The revised Tariff Leaves, which are identified below, are filed to become effective on July 1, 2023:

<u>Electric Tariff Leaves:</u>

Leaf No.	Revision No.	Superseding Revision No.
20	7	6
152	8	7
152.1	0	
253.1	3	2

[1] This schedule is also titled, "Delivery Service Rate Schedule Implementing and Part of the Service Agreement Between the Power Authority of the State of New York ("PASNY" or "NYPA") and Consolidated Edison Company of New York, Inc. (the "Company"), dated March 10, 1989, for the Delivery by the Company of Power and Associated Energy to Authority Public Customers."

Received: 09/30/2022

253.1.1	0	
254.1	0	
268	14	12
269	8	7
327.19	1	0
327.20	1	0
358.1	6	5
382	6	5
383.2	1	0
476	5	3
477	6	4
477.2	0	

PASNY Tariff Leaves:

Leaf No.	Revision No.	Superseding No.
17.2	6	5
17.11.2	2	1
17.12	5	4
17.21.2	0	

Reason for Filing

On September 17, 2020, FERC issued Order No. 2222 that aimed to remove barriers for distributed energy resources ("DER") to participate in the wholesale markets that it regulates.[2] To address these barriers, Order No. 2222 required each regional transmission organization ("RTO") and independent system operator ("ISO") under FERC's jurisdiction to revise its tariff to establish DER aggregators as a type of market participant that can register under one or more participation models contained in the RTO/ISO tariff and accommodates the physical and operational characteristics of each DER aggregation.[3] Of particular relevance to this filing, Order No. 2222 allows DER to simultaneously participate in RTO/ISO markets and retail programs (i.e., dual participation) but also allows RTOs/ISOs to exclude participation of DER that are receiving compensation for the same services as part of another program.[4] Similarly, FERC Order No. 841 directed RTOs/ISOs to remove barriers to the participation of electric storage resources, including

[2] *Participation of Distributed Energy Res. Aggregations in Mkts. Operated by Reg'l Transmission Orgs. & Indep. Sys. Operators*, Order No. 2222, 172 FERC ¶ 61,247 (2020), *order on reh'g*, Order No. 2222-A, 174 FERC ¶ 61,197, *order on reh'g*, Order No. 2222-B, 175 FERC ¶ 61,227 (2021). FERC defined DER as "any resource located on the distribution system, any subsystem thereof or behind a customer meter." Order No. 2222 at P 114.

[3] *Id.* P 6.

[4] *Id.* P 160.

Received: 09/30/2022

those interconnected to distribution facilities, in wholesale markets.[5] Importantly, FERC found that wholesale purchases and sales by electric storage resources (i.e., for charging and discharging) must be at the wholesale locational marginal price regardless of which participation model the electric storage resource uses to participate.[6]

One of the overarching principles of FERC Order No. 2222 is that dual participating customers must not receive compensation concurrently for the same service, such as compensation received for the sale of energy and capacity, in the retail markets that they are receiving in the wholesale markets. Order No. 2222 specifically prohibits double counting or double compensation of services provided by DER.[7] In compliance with Order No. 2222 directives, the New York Independent System Operator, Inc. ("NYISO") proposed revisions to its Market Administration and Control Area Services Tariff ("Services Tariff") and Open Access Transmission Tariff, which FERC accepted subject to a further compliance filing on June 17, 2022.[8] On the topic of dual participation and the potential for double counting of services, NYISO proposed in its first compliance filing to revise Section 4.1.10.6 of its Services Tariff to prohibit an aggregator from enrolling a new DER that "provides the same or substantially similar service in a retail market or program" that it provides in the NYISO-administered markets.[9] Subsequently, FERC accepted NYISO's proposed revisions on double counting but directed NYISO to delete the wording "or substantially similar" in a further compliance filing.[10] NYISO's Services Tariff, however, only requires the DER aggregator, as part of the registration process, to affirm through an attestation that the DER is not providing the same service to a retail market or program.

Similar to the intent of NYISO's provision to prevent double counting of services, the Company's proposed revisions clarify customer eligibility to participate in its DER retail programs when such DER also participate in the NYISO markets, to prevent duplicative compensation for the same service. In addition to avoiding duplicative compensation issues, the Company seeks to maximize dual participation opportunities for customers by proposing a new option for Value Stack Customers to receive payment for the energy and capacity from the NYISO but continue to be eligible to receive the applicable Value Stack non-energy and non-capacity compensation from the Company (i.e., the Environmental Component Credit, Market Transition Credit Component, Demand Reduction Value Component, Locational System Relief Value Component, and the Value Stack Community Credit Component). This new option, the Wholesale Value Stack ("WVS"), is identical to the Value Stack except, unlike Value Stack Customer-generators, WVS Customer-

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[5] *Elec. Storage Participation in Mkts. Operated by Reg'l Transmission Orgs. & Indep. Sy. Operators*, Order No. 841, 162 FERC ¶ 61,127 (2018), *order on reh'g*, Order No. 841-A, 167 FERC ¶ 61,154 (2019), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 964 F.3d 1177 (D.C. Cir. 2020).
[6] *Id.* P 289; *see also* 18 C.F.R. § 35.28(g)(9)(ii) (stating "[t]he sale of electric energy from an independent system operator or regional transmission organization market to an electric storage resource that the resource then resells back to that market must be at the wholesale locational marginal price.").
[7] Order No. 2222 at PP 159-164.
[8] *New York Indep. Sys. Operator, Inc.*, 179 FERC ¶ 61,198 (2022) ("Order on Compliance Filing").
[9] NYISO, Compliance Filing, Docket No. ER21-2460-000, Transmittal at 41 (filed July 19, 2021).
[10] Order on Compliance Filing at PP 133, 135.

Received: 09/30/2022

generators will receive energy payments and capacity payments, as applicable, from the NYISO either directly or through an aggregation in lieu of payment from the Company, thus, preventing duplicative compensation and providing Customer-generators additional optionality if they elect to participate in the NYISO markets.

Proposed Tariff Changes

The Company is proposing several changes to its Electric Tariff to allow dual participation and prevent duplicative compensation. Specifically, the Company proposes the following amendments to its programs that compensate customer-generators for exporting:

- Rider R - Net Energy Metering ("NEM") and Value Stack: the Company added the aforementioned new WVS as a new sub-section under Rider R. New WVS customers must still meet all the eligibility requirements applicable to Value Stack customers and may still receive the non-energy and non-capacity compensation they would have received under the Value Stack but will now receive energy and capacity payments from the NYISO in lieu of the Value Stack Energy and Capacity components. The Company included timing restrictions regarding switching between retail and wholesale service tariffs to accommodate the NYISO's capability planning year processes. A sentence was placed in both the Value Stack Energy Component and the Value Stack Capacity Component Sections of Rider R to reinforce that WVS customers do not receive compensation for the energy or capacity components that Value Stack customers receive. In addition, this filing adds clarifying language to explain the rules for customers returning to the Value Stack after having been on WVS versus customers not previously enrolled in the Value Stack who are switching from WVS to the Value Stack, as far as compensation election and eligibility election dates, rates, and terms. The Company added to DG Application Form G a box where applicants can indicate that they are applying for the Wholesale Value Stack.

- Grandfathered NEM and Phase 1 NEM customers cannot "dual" participate in both the Company's and NYISO's programs. Any type of NEM customer wishing to participate in wholesale markets must give up its NEM status and opt into WVS.

- SC 11 Buy-Back Customer-generators cannot "dual" participate in both the Company's and NYISO's programs. Any Buy-Back Customer-generators must forgo the SC 11 Buy-Back tariff and take Wholesale Distribution Service pursuant to Attachment O of the Company's Open Access Transmission Tariff ("OATT") on file at FERC. The Company included timing restrictions regarding switching between retail and wholesale service tariffs to accommodate NYISO's capability planning year processes. Outdated NYISO export provisions were deleted from this section.

Received: 09/30/2022

- Rider T-CSRP/DLRP and Rider AC-Term and Auto DLM customers can "dual" participate in both the Company's and NYISO's programs. The Company added Wholesales Distribution Service ("WDS") to the definition for Load Relief and Electric Generating Equipment in these riders.

The Company also proposes other tariff changes as follows:

- DG Application Form G was updated by deleting the reference to NYISO's previous 1 MW minimum offer in accordance with FERC Order No. 2222, which requires each RTO/ISO to implement a minimum size requirement not to exceed 100 kW for all aggregations but does not impose any minimum size requirement for individual DER included in such aggregations.[11]

- The Company added the definition for Wholesale Distribution Service.

- Payments made under WVS will be recovered in the same manner as payments made to Value Stack customers are recovered, which is detailed in General Rules 26.8, Value of Distributed Energy Resources Cost Recovery.

- The Company updated Standby Service (General Rule 20) to state that customers with stand-alone Electric Energy Storage systems charging for wholesale participation purposes will be billed pursuant to Attachment O of the Company's OATT on file at FERC in accordance with FERC Order No. 841.[12]

The Company made all the corresponding changes to the PASNY Tariff as written above regarding the Value Stack, Wholesale Value Stack, Standby Service and stand-alone Electric Energy Storage systems, and added that PASNY customers may export under the Company's SC 11 tariff or export to NYISO or a third party under WDS.

Requested Effective Date and Commission Action Date

The NYISO has stated it expects DER aggregator registration to begin in the second quarter of 2023 but that aggregators are not expected to transact in the NYISO markets until approximately August 2023. Accordingly, the Company is respectfully requesting that the Commission approve the proposed modifications to its Electric Tariff and PASNY Tariff with an effective date of July 1, 2023 to ensure that these tariff provisions are in effect prior to the date that customers may commence transacting in the NYISO markets pursuant to Order No. 2222. Further, the Company respectfully requests that the Commission issue an order on the merits of this filing in the first quarter of 2023 but no later than April 1, 2023 in order to ensure the Company has sufficient time

[11] *See* Order No. 2222 at P 171.
[12] Order No. 841 at P 289.

Received: 09/30/2022

to make the necessary revisions for Wholesale Distribution Service reflected in Attachment O of its OATT on file with FERC.

Attachment O of the Company's OATT sets forth the rates, terms and conditions of service in providing WDS to customers. Because the Company anticipates providing WDS to DER customers who choose to participate in the NYISO markets, the Company will need to amend Attachment O to reflect the expansion of services contemplated by Order No. 2222. The Company anticipates that it will propose reciprocal, clarifying, and preclusive language in Attachment O of its OATT to mirror the relevant language in the state retail tariffs proposed in this filing. Similar to this filing, the Company anticipates seeking a July 1, 2023 effective date for the Attachment O revisions at FERC. To provide Wholesale Distribution Service and appropriately charge customer-generators for this delivery service when DER may commence transacting in the NYISO markets, the necessary revisions to Attachment O must be in place. In accordance with FERC's 60-day prior notice requirement,[13] the Company must submit this filing to FERC by May 1, 2023, absent having sufficient grounds for waiver.

The Commission's disposition of this filing in advance of submitting the necessary Attachment O revisions at FERC will ensure that there is no disconnect between the Company's Electric Tariff and PASNY Tariff provisions and its proposed Attachment O provisions that it will file at FERC. For this reason and to permit sufficient time for the Company to finalize its FERC filing in light of the Commission's order in this proceeding, the Company respectfully requests that the Commission issue an order on the merits of this filing in the first quarter of 2023 but no later than April 1, 2023.

Conclusion and Notice

The Company is filing changes to its Electric Tariff and PASNY Tariff to become effective on July 1, 2023. The Company respectfully request the requirements of Section 66(12)(b) of the Public Service Law and 16 NYCRR Section 720-8.1 regarding newspaper publication be waived as these changes will be communicated to customers through a post on the Company's website. Included is a proposed form of Notice of Proposed Rule Making for publication in the State Register pursuant to the State Administrative Procedures Act.

Respectfully submitted,

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

[13] 18 C.F.R. § 35.3(a)(1).