

..DID: 20643
..TXT:

October 10, 2002

**CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.
4 Irving Place
New York, NY 10003**

Hon. Janet Deixler
Secretary
State of New York
Public Service Commission
Three Empire State Plaza
Albany, NY 12223

Re: Proposed Amendments to Gas Tariff

Dear Secretary Deixler:

Consolidated Edison Company of New York, Inc. ("Con Edison" or "the Company") is filing today with the Public Service Commission ("the Commission") amendments to its Schedule for Gas Service -PSC No. 9 - Gas.

Appendix A identifies the specific tariff leaves that are being revised which are issued October 10, 2002 to become effective January 1, 2003.

Summary of Tariff Changes

Since April 1, 2001, Gas Marketers in Con Edison's service territory have had the opportunity to trade end-of-month imbalances with other Marketers and Direct Customers at specific pipeline Citygate Receipt Points under the Monthly Imbalance Trading Service ("ITS"). The Company, in its "Joint Proposal" adopted by the Commission on April 22, 2002 in Case Nos. 00-G-1456 and 97-G-1380, stated that it would "endeavor to expand its ITS to permit trading of imbalances on a daily basis." Accordingly, the Company now proposes to offer Daily Imbalance Trading Service ("DITS") to Marketers serving Interruptible and Off-Peak Firm Customers, Direct Interruptible Customers and Direct Off-Peak Firm Customers in Phase 1 of a two-phase program. Phase 1 will terminate on September 30, 2004 unless extended by the Company with the approval of the Commission. The Company will file with the Commission before June 1, 2003, its proposal to offer DITS to Power Generation Customers as part of Phase Two of the program. DITS will be limited to imbalances incurred during the same gas day.

The Company is also proposing another change in its tariff to bring it into conformance with the Uniform Business Practices ("UBP") - adopted by the Commission on April 15, 1999. Under the Company's gas tariff, if a Marketer fails to meet its obligations to deliver the required quantities of gas on three or more occasions, the Company may terminate service to that Marketer on the earlier of 30 days or the end of the term of service. (See Tariff Leaf No. 390.0.) However, the UBP states that "the discontinuance will take place no longer than 15 calendar days after the end of the designated period to cure the problem ..." (Emphasis supplied.) Since the cure period is 10 calendar days, termination of service may occur as early as the eleventh day consistent with the UBP. The Company is therefore changing its tariff language in accordance with the procedure set forth in the UBP.

The Company is also adding two capacity release recall provisions for Marketers serving customers taking service under Service Classification No. 9. This is a result of concerns raised at the Natural Gas Reliability Advisory Group's "Panel Discussion on Potential Marketer Bankruptcies" held on March 13, 2002. Based on a subsequent review of the Company's gas tariff, Commission Staff felt and the Company agreed that the tariff should be amended to clarify two instances where the Company needs to be able to recall capacity to protect the interests of its customers: (1) when a Marketer fails to deliver the required gas quantities and (2) when required to preserve the integrity of the Company's facilities and service.

The Company is filing under separate cover complementary revisions to its Gas Sales and Transportation Operating Procedures Manual.

Conclusion

The Company respectfully requests that the leaves listed in Appendix A be put into effect on January 1, 2003. The procedural requirements pursuant to the State Administrative Procedures Act are hereby enclosed.

Respectfully submitted,

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

By: _____
Joel H. Charkow

APPENDIX A

Leaf No. 313
Revision 3 superseding
Revision 2

Leaf No. 362
Revision 3 superseding
Revision 2

Leaf No. 389.4
Revision 2 superseding
Revision 1

Leaf No. 390
Revision 4 superseding
Revision 3

NYS DEPARTMENT OF STATE
Notice of Proposed Rule Making

Public Service Commission
(SUBMITTING AGENCY)

Pursuant to the provisions of the State Administrative Procedure Act (SAPA), NOTICE is hereby given of the following agency action:

1. Proposed action:

The Public Service Commission is considering whether to approve, reject, in whole or in part, a proposal filed by Consolidated Edison Company of New York, Inc. to make changes to Service Classification ("SC") Nos. 9 and 20 of its gas tariff schedule, P.S.C. No. 9 – Gas, effective January 1, 2003.

2. Statutory authority under which rule is proposed:

Public Service Law, Section 66(12).

3. Subject of rule:

The Company proposes to offer a Daily Imbalance Trading Service and to change tariff provisions pertaining to (i) the time period for terminating service to Marketers for non-delivery of gas and (ii) capacity release recalls.

4. Purpose of rule:

The Company proposes to: (1) offer Daily Imbalance Trading Service to SC No. 20 Marketers serving Interruptible or Off-Peak Firm Customers and Direct Interruptible or Off-Peak Firm Customers, (2) reduce the grace period for termination of service to a Marketer from 30 to 11 days in instances where the Marketer fails to meet its obligation to deliver the required gas quantities, and (3) add specific provisions permitting the Company to recall capacity released to Marketers when the Marketer fails to deliver the required gas quantities or when required to preserve the integrity of the Company's facilities and service.

5. Terms of rule (check applicable box):

☐ The rule contains 2,000 words or less. An original copy of the text in scannable format is attached to this form.

☐ The rule contains more than 2,000 words. Therefore, an original copy of a summary the text (in scannable format) is attached to this form.

☒ Pursuant to SAPA § 202(7)(b), the agency elects to print a description of the subject, purpose and substance of the rule containing less than 2,000 words. The original text in scannable format is attached to this form.

6. The text of the rule and any required statements or analyses may be obtained from:

Name of agency contact Jeffrey Mills, Clerk II
Office address Three Empire State Plaza
Albany, New York 12223
Telephone number (518) 474-3204

NOTICE OF PROPOSED RULE MAKING

PAGE 2 of 5

7. Regulatory Impact Statement (RIS) (check applicable box):

- ☐ A RIS of 2,000 words or less is submitted with this notice.
- ☐ A summary of the RIS is submitted with this notice because the full text exceeds 2,000 words.
- ☐ A consolidated RIS is submitted with this notice because:
 - ☐ the rule is one of a series of closely related and simultaneously proposed rules.
 - ☐ the rule is one of a series of virtually identical rules proposed during the same year.
- ☐ An RIS is not submitted because this rule is a technical amendment and, therefore, exempt from SAPA § 202-a. Attached to this notice is a statement of the reason(s) for claiming this exemption.
- ☐ An RIS is not submitted because this rule is subject to a consolidated RIS printed in the Register under a notice of proposed rule making ID No. PSC-_____; Register date: _____.
- ☒ An RIS is not submitted with this notice because this rule is a "rate making" as defined in SAPA § 102(2)(a)(ii).

8. Regulatory Flexibility Analysis for Small Businesses (RFASB) (check applicable box):

- ☐ An RFASB of 2,000 words or less is submitted with this notice.
- ☐ A summary RFASB is submitted with this notice because the full text exceed 2,000 words.
- ☐ A consolidated RFASB is submitted with this notice because this rule is the first of a series of closely related rules that will be the subject of the same analysis.
- ☐ An RFASB is not submitted because this rule will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses. A statement is attached setting forth this agency's finding and the reasons upon which the finding was made, including what measures were used by this agency to ascertain that this rule will not impose such adverse economic impact or compliance requirements on small businesses.
- ☐ An RFASB is not submitted because this rule is subject to a consolidated RFASB printed in the Register under a notice of proposed rule making, ID No. _____; Register date: _____.
- ☒ An RFASB is not submitted with this notice because this rule is a "rate making" as defined in SAPA § 102(2)(a)(ii).

9. Rural Area Flexibility Analysis (RAFA) (check applicable box):

- ☐ An RAFA of 2,000 words or less is submitted with this notice.
- ☐ A summary RAFA is submitted with this notice because the full text exceeds 2,000 words.

- [] A consolidated RAFA is submitted with this notice because this rule is the first of a series of closely related rules that will be the subject to the same analysis.

NOTICE OF PROPOSED RULE MAKING**PAGE 3 of 5**

- ☐ An RAFA is not submitted because this rule will not impose any adverse impact or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas. A statement is attached setting forth this agency's finding and the reasons upon which the finding was made, including what measures were used by this agency to ascertain that this rule will not impose such adverse impact or compliance requirements on rural areas.
- ☐ An RAFA is not submitted because this rule is subject to a consolidated RAFA printed in the Register under a notice of proposed rule making, ID No. _____; Register date: _____.
- ☒ An RAFA is not submitted because this rule is a "rate making" as defined in SAPA § 102(2)(a)(ii).

10. Job Impact Statement (JIS) (check applicable box):

- ☐ A JIS of 2,000 words or less is submitted with this notice.
- ☐ A summary JIS is submitted with this notice because the full text exceeds 2,000 words.
- ☐ A JIS/Request for Assistance is submitted with this notice.
- ☐ A consolidated JIS is submitted with this notice because this rule is the first of a series of closely related rules that will be subject to the same analysis.
- ☐ A JIS is not submitted because it is apparent from the nature and purpose of the rule that it will not have a substantial adverse impact on jobs and employment opportunities. A statement is attached setting forth this agency's finding that the rule will have a positive impact or no impact on jobs and employment opportunities; except when it is evident from the subject matter of the rule that it could only have a positive impact or no impact on jobs and employment opportunities, the statement shall include a summary of the information and methodology underlying that determination.
- ☐ A JIS is not submitted because this rule is subject to a consolidated JIS printed in the **Register** in a notice of proposed rule making ID No. _____; Register date: _____.
- ☒ A JIS is not submitted with this notice because this rule is a "rate making" as defined in SAPA § 102(2)(a)(ii).
- ☐ A JIS is not submitted because this rule is proposed by the State Comptroller or Attorney General.
11. Prior emergency rule making for this action was previously published in the _____ issue of the Register, I.D. No. _____.
12. Expiration Date (check only if applicable):
- ☒ This proposal will not expire in 180 days because it is for a "rate making" as defined in SAPA § 102(2)(a)(ii).

NOTICE OF PROPOSED RULE MAKING

PAGE 4 of 5

13. Public Hearings (check box and complete as applicable)

☐ A public hearing is required by law and will be held at ___ a.m./p.m. on _____, 20__,
at _____

☐ A public hearing is not required by law, and has not been scheduled.

☐ A public hearing is not required by law, but will be held at ___ a.m./p.m. on _____, 20__,
at _____

14. Interpreter Service (check only if a public hearing is scheduled):

☐ Interpreter services will be made available to hearing impaired persons, at no charge,
upon written request submitted within a reasonable time prior to the scheduled hearing.
Requests must be addressed to the agency contact designated in this notice.

15. Accessibility (check appropriate box only if a public hearing is scheduled):

☐ All public hearings have been scheduled at places reasonably accessible to persons
with a mobility impairment.

☐ All public hearings except the following have been scheduled at places reasonably
accessible to persons with a mobility impairment:

1. _____
2. _____
3. _____

☐ None of the scheduled public hearings are at places that are reasonably accessible to
persons with a mobility impairment.

☐ An **optional** explanation is being submitted regarding the nonaccessibility of one or
more hearing sites.

16. Submit data, views or arguments to (complete only if different than previously named agency
contact):

Name of agency contact Janet Hand Deixler, Secretary
Office address Three Empire State Plaza
Albany, New York 12223
Telephone number (518) 474-6530

17. Additional matter required by statute

☒ Check box if NOT applicable.

NOTICE OF PROPOSED RULE MAKING

PAGE 5 of 5

18. Public comment will be received until:
- ☐ 45 days after publication of this notice (MINIMUM, public comment period).
 - ☐ 5 days after the last scheduled public hearing required by statute (MINIMUM, with required hearing).
 - ☐ Other: (specify) _____.
19. Regulatory Agenda: **(The Division of Housing and Community Renewal; Workers Compensation Board; and the departments of Agriculture and Markets, Banking, Education, Environmental Conservation, Health, Insurance, Labor and Social Services** and any other department specified by the governor or his designee must complete this item. If your agency had an optional agenda published, that should also be indicated below):
- ☐ This action was listed as a Regulatory Agenda item in the first January issue of the Register, 19__.
 - ☐ This action was listed as a Regulatory Agenda item in the last June issue of the Register, 19__.
 - ☐ This action was not under consideration at the time this agency's Regulatory Agenda was submitted for publication in the Register.

AGENCY CERTIFICATION (To be completed by the person who PREPARED the notice)

I have reviewed this form and the information submitted with it. The information contained in this notice is correct to the best of my knowledge.

I have reviewed Article 2 of SAPA and Parts 260 through 263 of 19 NYCRR, and I hereby certify that this notice complies with all applicable provisions.

Name _____ Signature _____
Address _____
Date _____ Telephone _____

Please read before submitting this notice:

1. Except for this form itself, all text must be typed in scannable format as described in the Department of State's "NYS Register Procedures Manual."
2. Submit the **original notice and scanner copy** collated as (1) form; (2) text or summary of rule; and if any, (3) regulatory impact statement, (4) regulatory flexibility analysis for small businesses, (5) rural area flexibility analysis, (6) job impact statement - **and ONE copy of that set.**
3. **Hand deliver to:** DOS Office of Information Services, 41 State Street (3rd Floor), Albany
Address mail to: Register/NYCRR unit, Department of State, Albany, NY 12231