

..DID: 20427
..TXT:

September 9, 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: Case No. 01-G-1092

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 Service Classification No. 9 of its Schedule for Gas Service, PSC No. 9 - Gas.

Fourth Revised Leaf No. 265 is issued September 9, 2002 to become effective December 1, 2002.

Summary of the Proposed Changes

Under the Company's gas tariff, interruptible Customers taking sales service under Service Classification No. ("SC") 12, Rate I currently have two options for their method of gas interruption (see Tariff Leaf No. 330). The first is notification under which Customers must switch to their alternate fuel or energy source upon notification from the Company ("notification option"). The second is the use of a temperature-control device that automatically switches off the Customer's gas equipment at a specific temperature

setting ("temperature-control option"). When Customers take the Company's interruptible transportation service under SC 9, they are

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required to use the notification option as their method of interruption and are not offered the temperature-control option. The tariff amendments filed herein will allow interruptible transportation Customers to elect the temperature-control option for the 2002-2003 winter season (December 1, 2002 - March 31, 2003).

Reasons for the Proposed Changes

By order dated November 28, 2001 in the subject proceeding, the Commission directed that the Company review its gas switching procedures for its SC 9 interruptible transportation Customers. The Company was further directed to report its findings to the Staff of the Commission. By letter to Mr. Phillip Teumin, dated February 28, 2002 ("February 28th letter"), the Company reported that, based on a review of its operations and switching procedures for its interruptible transportation Customers, the Company would develop proposed terms and conditions for offering the temperature-control option to those Customers on a trial basis during the 2002-2003 winter period. In a follow-up letter to the Commission Staff, dated April 2, 2002, the Company outlined the specific terms and conditions of its proposal under which interruptible transportation Customers would be able to choose temperature-control as their method of service interruption. In recent discussions with Commission Staff, Staff requested that the Company file its proposal for the temperature-control option to be available to the Company's SC 9 interruptible transportation Customers on a trial basis for the upcoming winter season. The enclosed tariff amendments provide for such option to be available beginning December 1st.

The Company will notify its interruptible transportation Customers of the availability of the temperature-control option and provide them with an opportunity to select it via the annual pre-winter letter that is sent to such Customers outlining their responsibilities as interruptible Customers. The Company is also revising its Sales and Transportation Operating Procedures to explain in further detail a temperature-control, interruptible transportation Customer's responsibilities and its associated Marketer's responsibilities. For example, a Marketer will be responsible for payment of daily imbalance and monthly cashout charges that may result from a temperature-control interruption of a Customer within its aggregated group. A Direct Customer who performs its own balancing functions will likewise be responsible for payment of such charges.

At the end of the 2002-2003 winter period, the Company will

evaluate its experience in providing the temperature-control option to interruptible transportation Customers and decide whether to continue the program. As discussed in the February 28th letter, due to the lack of operating experience and other important operational

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concerns and issues associated with providing a temperature-control option to interruptible transportation Customers, the Company will retain the right to switch Customers back to the notification option at any time during the 2002-2003 winter season in order to alleviate conditions that threaten the integrity of the Company's distribution system or the Company's ability to serve the requirements of its firm customers.

Notices

Enclosed is a proposed form of Notice of Proposed Rule Making for publication in the State Register pursuant to the State Administrative Procedure Act. The Company will also make arrangements for newspaper publication of the proposed tariff changes prior to their effective date.

Respectfully submitted,

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

By: _____
Joel H. Charkow

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") No. 9 of its gas tariff schedule, P.S.C. No. 9 – Gas, effective December 1, 2002.

2. Statutory authority under which rule is proposed:

Public Service Law, Section 66(12).

3. Subject of rule:

The Company proposes to offer its SC No. 9 interruptible transportation customers the option of a temperature-control method of interruption.

4. Purpose of rule:

For the winter period of December 1, 2002 through March 31, 2003, the Company proposes to give interruptible transportation customers the option of using a temperature-control device that will automatically switch their gas equipment to their alternate fuel or energy source at specific temperature settings. This option is currently available to SC No. 12 interruptible sales customers who purchase their gas from Con Edison (as well as the option to curtail their gas use upon notification by the Company). Currently, SC No. 9 interruptible transportation customers only have the option to curtail their gas use upon notification by the Company. At the end of the 2000-2003 winter period, the Company will evaluate its experience in providing the temperature-control option to interruptible transportation customers and decide whether to continue the program.

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	<u>Jeffrey Mills, Clerk II</u>
Office address	<u>Three Empire State Plaza</u>
	<u>Albany, New York 12223</u>
Telephone number	<u>(518) 474-3204</u>

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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).

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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.
- ☐ 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.

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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).

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.

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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.

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 _____

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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