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conEdison

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July 20, 2009

Honorable Jaclyn A. Brilling
Secretary
State of New York
Public Service Commission
Three Empire State Plaza
Albany, New York 12223

Re: Capacity Release Service

Dear Secretary Brilling:

Consolidated Edison Company of New York, Inc. ("Con Edison" or the "Company") hereby submits for filing the following tariff leaves reflecting proposed revisions to its Schedule for Gas Service, P.S.C. No. 9 – GAS (the "Gas Tariff").

Leaf 303 Revision 10 Superseding Revision 9
Leaf 390.4 Revision 4 Superseding Revision 3

These tariff leaves, which the Company is filing electronically today, are scheduled to become effective November 1, 2009.

<u>Reason for Filing</u>

The purpose of this filing is to modify the Company's capacity release service available to Capacity Release Sellers ("Sellers") serving firm transportation customers. Specifically, for the reasons discussed below, the Company is proposing to change the terms under which the Company will release interstate pipeline capacity to Sellers and to revise its Capacity Release Service Adjustment ("CRSA"), a mechanism currently used to credit or surcharge customers for the difference between the average cost of capacity released to Sellers ("maximum rate") and the Company's weighted average cost of capacity ("WACOC").[1]

Under the Company's current capacity release program, the Company releases capacity from its capacity portfolio to facilitate end user and Seller participation in the competitive market. In accordance with Commission policy, the capacity release program has been structured so that, on a burner tip basis, capacity is released by the Company at a cost comparable to the WACOC paid by full service customers.

Ideally, this policy would be implemented by the Company's releasing to each customer a pro rata "slice" of <u>all</u> firm pipeline capacity in the Company's portfolio at maximum lawful prices. However, operational, administrative, competitive and/or reliability considerations results in the Company's releasing capacity on some but not all of its pipeline suppliers. Accordingly, implementation of the Commission's policy has been a two-step process – releasing pipeline capacity on certain of the Company's pipeline suppliers to Sellers, pursuant to pre-arranged deals, at maximum lawful prices, and

[1] The WACOC is adjusted to reduce TransCanada demand charges to the extent necessary to result in comparability between Canadian and domestic commodity costs.

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crediting or surcharging (as applicable) all retail choice customers through the CRSA an amount to bring the net cost of this capacity in line with the WACOC reflected in the Company's full service rates.

Prior to a recent revision of federal rules governing the release of capacity on interstate pipelines, prearranged capacity release transactions were permitted only when the price of the released capacity was equal to the maximum rate set forth in the pipeline's Federal Energy Regulatory Commission ("FERC") - approved tariff (18 CFR §284.8(h)(1)). Prearranged capacity releases are necessary for the Company's retail access program in order to assure that the capacity obtained by the Company for its customers remains "dedicated" to the Company's retail markets, and therefore available for use by participating Sellers.

The Company is now proposing to revise its tariff to enable it to release capacity to Sellers at its WACOC. The Company's proposed change has been made possible by recent revisions to federal regulations adopted by the FERC in Order 712. *Promotion of a More Efficient Capacity Release Market*, Order No. 712, 123 FERC ¶ 61,286 (2008) ("Order 712"). In Order 712, the FERC adopted a number of important changes to rules governing capacity release on interstate pipelines. The pertinent changes adopted by FERC applicable to state retail choice programs were (1) an exemption from the long established bidding requirement applicable to capacity releases at less than the maximum rate; and (2) relief from the longstanding requirement that the rate for short term capacity releases not be greater than the pipeline's maximum rate for such capacity. As a result of these changes, releases under the Company's retail access program are exempt from the bidding requirement regardless of the rate at which the Company makes its releases to Sellers. These changes allow the Company to release pipeline capacity to Sellers at a rate equal to the Company's WACOC without posting the proposed release transaction for bidding. This means that the Company can enter into prearranged release transactions with the price of the released capacity set to bring the Seller's capacity cost to the Company's WACOC.

Under its revised capacity release program (the "New Program"), the Company will calculate a capacity release rate to become effective each November 1 for a twelve-month release term. This capacity release rate will be set at the Company's projected WACOC, adjusted as previously described, based on rates for each upstream pipeline as published in its FERC tariff. Sellers will pay directly to the Company's pipeline suppliers the WACOC established for that twelve-month release term for all interstate pipeline capacity released to them during the twelve-month term.

Under the New Program, the CRSA will be used to credit or charge firm transportation customers for any reconciling amounts associated with the difference between the WACOC charged to Sellers during the twelve-month release term and the actual WACOC experienced by the Company during the same period. In addition, the CRSA will be used to implement a final reconciliation of the current capacity release program for the twelve-month period ended October 31, 2009, which will be included in the CRSA from November 1, 2009 through October 31, 2010.

<u>Summary of Tariff Changes</u>

The following tariff changes will be made to reflect the New Program:

- Leaf 303, which describes the CRSA, will be revised to define the CRSA as the difference between the projected WACOC and the actual WACOC for each twelve-month period commencing November 1. In addition, language has been included allowing for a final reconciliation of the current capacity release program.
- Leaf 390.4, under "Payment of Pipeline Charges" has been revised to include language stating that pipeline capacity will be released to Sellers at the WACOC.

In addition, applicable changes will be made to the Gas Sales and Transportation Operating Procedures within 30 days of the effective date of the revised tariffs.

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Conclusion and Notice

Enclosed herewith is a “Notice of Proposed Rule Making” for publication in the State Register pursuant to the provisions of the State Administrative Procedures Act. The Company will publish notice of the changes filed today in accordance with the Commission’s regulations on newspaper publication.

Questions regarding this filing may be directed to me at (212) 460-3325.

Very truly yours,

Christine Colletti
Director – Rate Engineering

Enclosure