STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 19-E-0065 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric Service.

CASE 19-G-0066 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Gas Service.

ORDER ADOPTING TERMS OF JOINT PROPOSAL AND ESTABLISHING ELECTRIC AND GAS RATE PLAN

Issued and Effective: January 16, 2020

TABLE OF CONTENTS

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on January 16, 2020

COMMISSIONERS PRESENT:

John B. Rhodes, Chair
Diane X. Burman
James S. Alesi
Tracey A. Edwards, dissenting
John B. Howard

CASE 19-E-0065 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric Service.

CASE 19-G-0066 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Gas Service.

ORDER ADOPTING TERMS OF JOINT PROPOSAL AND
ESTABLISHING ELECTRIC AND GAS RATE PLANS

(Issued and Effective January 16, 2020)

BY THE COMMISSION:

INTRODUCTION

This Order adopts the terms set forth in the attached Joint Proposal, which was filed on October 18, 2019 and was admitted into the record along with supporting exhibits at the November 19, 2019 evidentiary hearing in these rate proceedings.[1]

---

[1] The Joint Proposal is appended to this Order as Attachment A. After the October filing, Con Edison and Staff filed corrections on November 7, 2019 (page 3 of both Appendices 8 and 9) and on December 5, 2019 (Appendix 21). Those corrections have been incorporated into Attachment A.

Signatories to the Joint Proposal include Consolidated Edison Company of New York, Inc. (Con Edison or the Company), Department of Public Service trial staff (Staff), New York City (NYC), Association for Energy Affordability, Blueprint Power, CALSTART, ChargePoint, Inc., Consumer Power Advocates, Direct Energy Services, Environmental Defense Fund (EDF)(Case 19-E-0065 only), Metropolitan Transportation Authority, Natural Resources Defense Council (Case 19-E-0065 only), New York Energy Consumers Council, New York Geothermal Energy Organization, New York State Office of General Services, New York Power Authority (NYPA), New York Retail Choice Coalition, the Sabin Center for Climate Change Law at Columbia Law School, and Bob Wyman (together, the Signatory Parties). Opposition to the Joint Proposal was filed by AARP New York (AARP); CityBridge, LLC; Pace Energy and Climate Center (Pace); Sane Energy Project (Sane Energy); Alliance for a Green Economy (AGREE); and EDF (Case 19-G-0066 only). This Order establishes three-year electric and gas rate plans effective from January 1, 2020 to December 31, 2022 (the Rate Plans).[2]

PROCEDURAL HISTORY

On January 31, 2019, Con Edison initiated these proceedings by filing tariff amendments pursuant to Public Service Law (PSL) § 66(12) proposing increases in electric and gas delivery rates and charges[3] to become effective no later than January 1, 2020. Under its proposed tariffs, Con Edison sought

[2] Joint Proposal, p. 5.

[3] Con Edison is currently operating under plans establishing electric and gas rates over the three-year period January 1, 2017 through December 31, 2019. Cases 16-E-0060 et al., Consolidated Edison Company of New York, Inc.- Rates, Order Approving Electric and Gas Rate Plans (issued January 25, 2017) (2017 Rate Order).

an increase of approximately $485 million to its existing annual electric delivery revenues, reflecting approximately an 8.6 percent increase in delivery revenues, and an increase of approximately $210 million to its existing annual gas delivery revenues, reflecting approximately a 15.8 percent increase in delivery revenues. The Company's requested increase in electric delivery revenues, for non-heating electric customers using 600 kWh per month, would have resulted in an average residential monthly delivery bill increase of $7.74 or 8.6 percent (from $138.55 to $146.29), or an average total bill increase of 5.6 percent. The additional gas delivery revenues sought by the Company, for residential gas heating customer using 100 ccf per month, would have resulted in an average residential monthly delivery bill increase of $17.29 or 15.8 percent (from $109.58 to $126.87), or a total bill increase of 10.9 percent.[4]

According to Con Edison's filing, the primary drivers of both its electric and gas requested rate increases are growth in the Company's rate base resulting largely from increases in net plant, along with the associated depreciation expense and property taxes from those investments, the recovery of deferrals, and a requested increase in its allowed rate of return. Additionally, a reduction in forecasted sales is a rate driver for electric delivery service only and increases in operations and maintenance (O&M) expenses is a rate driver for gas delivery service only. The Company's requested increases were partially offset by savings stemming from the reduction in the federal income tax (FIT) rate. For electric, the Company's projected O&M expense increase is due primarily to expenditures

[4] Con Edison also included financial information for rate years ending December 31, 2021 and December 31, 2022 to facilitate settlement discussions and multi-year plans, if the parties opted to negotiate.

for Advanced Metering Infrastructure (AMI), operations expenses, including interference, and customer energy solutions expenses.[5] The electric O&M expense increase is offset by savings associated with the new Business Cost Optimization (BCO) program.[6] For gas, Con Edison's projected O&M expense increase is due primarily to costs resulting from changes in inspection requirements related to the implementation of the Commission's directives for service lines,[7] labor, and AMI. These increased expenses were also partially offset by savings associated with Con Edison's BCO program.

On March 13, 2019, a procedural conference was held in New York City. The presiding Administrative Law Judge, Dakin D. Lecakes (ALJ), issued his Ruling on Schedule on March 20, 2019. In addition to the filing of testimony and exhibits required by the ALJ's schedule, Con Edison filed a compliance plan related to two Commission orders, its December 13, 2018 Order Adopting Accelerated Energy Efficiency Targets in Case 18-M-0084, and its February 7, 2019, Order Approving with Modifications the Non-Pipeline Solutions Portfolio in Case 17-G-0606 (April Compliance Plan). The Company's April Compliance Plan was incorporated into these rate proceedings in the testimony of Con Edison.

---

5 Customer Energy Solutions is the name given in Joint Proposal section J to a suite of programs that include, among other items, energy efficiency, earnings adjustment mechanisms, electric vehicles, energy storage, distributed energy resource management, and Con Edison's innovation hub.

6 The BCO is Con Edison's Company-wide program to improve processes, functions, and tasks to reduce costs while maintaining safe, reliable and adequate service.

7 See Case 15-G-0244, Proceeding on Motion of the Commission to Develop Implementation Protocols for Complying with Inspection Requirements Pertaining to Gas Service Lines Inside Buildings, Order Establishing Statewide Inspection Schedules and Procedural Requirements (issued April 20, 2017).

Pursuant to the ALJ's schedule, on April 10, 2018, the Company filed a preliminary update. In its update, Con Edison decreased its proposed electric revenue increase by approximately $48 million, from $485 million to $437 million, and decreased its proposed gas revenue increase by approximately $33 million, from $210 million to $177 million.

On May 24, 2019, twenty-five parties filed testimony in response to Con Edison's testimony and rate proposals. On June 14, 2019, Con Edison and twelve other parties filed rebuttal testimony. On August 19, 2019, after receiving leave from the ALJ, four parties filed sur-rebuttal testimony related to gas transmission projects in Manhattan and Queens.

On June 17, 2019, Con Edison filed a Notice of Impending Settlement Discussions to begin on June 27, 2019. To facilitate the uninterrupted continuation of settlement negotiations, Con Edison filed letters consenting to extend the maximum suspension period on July 8, 2019 and again on August 8, 2019, allowing for a maximum suspension through February 29, 2020.

On October 18, 2019, Staff, on behalf of the Signatory Parties, filed the Joint Proposal with the Secretary. On October 23, 2019, the ALJ issued his Ruling on Schedule to consider the Joint Proposal. On November 4, 2019, Statements Supporting the Joint Proposal were filed by Con Edison, Staff, NYC, NYECC, CPA, NYPA, MTA, NYGEO, ChargePoint, and AEA, with EDF filing a statement supporting the electric rate plan. Statements in Opposition were filed by AARP, AGREE, and Sane

Energy, with EDF filing an opposition statement on the Joint proposal's gas rate plan with additional opposition testimony.[8]

On November 5, 2019, Con Edison moved to strike portions both of EDF's testimony and the opposition statements of EDF and AARP related to a Con Edison declared gas moratorium in Westchester County as outside the scope of the Joint Proposal and rate proceedings. On November 13, 2019, reply statements in support of the Joint Proposal were filed by MTA, Con Edison, NYECC, Staff, and ChargePoint. On November 15, 2019, the ALJ issued his Ruling on Motion to Exclude Certain Issues and Strike Related Testimony, granting the Company's motion to remove consideration of the gas moratorium issues from the rate proceedings in deference to the Commission's initiated proceeding specifically designated for such issues, Case 19-G-0080.[9]

On November 19, 2019, the ALJ conducted an evidentiary hearing on the Joint Proposal admitting in the remaining testimony on the Joint Proposal, as well as over 700 exhibits. On December 6, 2019, post-hearing briefs were filed by Staff, Con Edison, AARP, EDF, Pace, and AGREE. In addition, EDF filed an interlocutory appeal to overturn the ALJ's ruling removing gas moratorium issues from the rate proceedings.

---

[8] CityBridge LLC filed a statement opposing the Joint Proposal, but the grounds on which it opposed were resolved by the Commission in Case 19-E-0068 in a December 17, 2019 Commission Determination. The Utility Workers Union of America, AFL-CIO, Local 1-2 also filed a statement and accompanying testimony opposing the Joint Proposal but withdrew its opposition by letter dated November 7, 2019.

[9] Ruling on Motion to Exclude Certain Issues and Strike Related Testimony (issued November 15, 2019) (Ruling to Exclude).

INTERLOCUTORY APPEAL

Parties Positions

On December 6, 2019, EDF filed an interlocutory appeal and a motion to implement temporary rates together with a request for oral argument before the Commission. The basis of EDF's appeal is that the ALJ improperly removed relevant testimony and evidence from the hearing record impairing EDF's ability to demonstrate that the Joint Proposal is not in the public interest. EDF's evidence concerned a gas moratorium instituted by Con Edison in parts of Westchester County. EDF argues that it should have been allowed to present the excluded evidence to demonstrate that the Joint Proposal is not in the public interest because it does not include EDF's recommended updates to Con Edison's gas supply planning processes and because it does not consider alleged failures of Con Edison to plan properly by reducing the Company's allowed Return on Equity (ROE). EDF maintains that these issues are germane to the Con Edison gas rate case and are therefore within the proper scope of the case as a matter of law. EDF requests that the Commission remand the matter for a full hearing on its evidence and filed a motion requesting that the Commission institute temporary rates to allow consideration of the gas rate matter past the statutory suspension date.

EDF submits that it is entitled to interlocutory relief because extraordinary circumstances exist inasmuch as the legal prohibition against "retroactive ratemaking ensures that EDF's proposal for an adjustment to the Company's rate of return on equity will not be available in any forum beyond this rate case." In EDF's view, "once the rates are set in this proceeding, the Commission may not via a subsequent decision relating to the moratorium decide to reduce the Company's ROE and apply the reduction back to the start of the rates resulting from this rate case (i.e., by providing ratepayers refunds or credits) because such action would constitute unlawful retroactive ratemaking."

On December 16, 2019, Con Edison submitted a response to EDF's appeal. The Company states that "the ALJ correctly held that, given the existence of a separate and ongoing Commission proceeding focused specifically on the moratorium, it would be premature, impractical, and potentially counterproductive to review the moratorium in this rate case; litigating the moratorium in this rate case would cause undue delay; and Con Edison customers would not be irreparably harmed by deferring to the Commission's moratorium proceeding. The ALJ also correctly held that Con Edison's gas planning process is more properly addressed in a statewide proceeding."

Con Edison notes that the Joint Proposal specifically addresses the moratorium by virtue of a clause that the Signatory Parties included in the Joint Proposal that agrees to reserve all litigation claims to the Commission's moratorium proceeding and any proceedings the Commission initiates as a result of the findings made there and also contains a reservation of rights to all parties to the rate case for any and all claims related to the moratorium. Con Edison argues that because of the foregoing Joint Proposal sections, EDF cannot demonstrate extraordinary circumstances.

The Moratorium and Commission's Actions

On January 17, 2019, Con Edison announced a temporary moratorium on connecting new gas customers in southern and central Westchester County would begin on March 15, 2019. The Company submitted that the moratorium was necessary due to gas supply constraints that limit its ability to meet customer demand for new firm gas service on the coldest winter days. Thereafter, on January 28, 2019, Chairman John B. Rhodes announced a new proceeding to investigate the facts surrounding the moratorium and issues relating to gas supply planning.[10]

On January 31, 2019, Con Edison filed the tariff leaves seeking new rates and charges for electric and gas service that became the foundation for these rate matters. Two weeks after the Company made its filing and these matters were initiated by motion of the Commission, the Commission created a wholly separate matter related to the moratorium (Moratorium Proceeding).[11] In establishing that Moratorium Proceeding, the Commission indicated that it would "consider all matters pertaining to the moratorium."[12]

Discussion

EDF's interlocutory appeal is denied. As the ALJ noted in the Ruling to Exclude, the Commission established Case 19-G-0080 to consider all matters pertaining to the Con Edison moratorium in Westchester County. There was no reservation of any issues to be determined in the gas rate case.

The ALJ also properly observed that having established the Moratorium Proceeding to consider all matters pertaining to the moratorium, to the extent that parties attempted to raise such issues in the gas rate proceeding, the parties were faced

---

10 Case 17-G-0606, Con Edison – Smart Solutions Petition, Statement from Public Service Commission Chair John B. Rhodes on Consolidated Edison's Decision to Stop Accepting New Gas Customers on a Temporary Basis in Westchester County (dated January 28, 2019).

11 Cases 19-G-0080, et al., Investigation into a Moratorium on New Natural Gas Services in the Consolidated Edison Company of New York, Inc. Service Territory, Notice of New Case Number Relating to Moratorium On New Natural Gas Services In The Service Territory Of Consolidated Edison Company Of New York, Inc. (issued Feb. 15, 2019) (Moratorium Proceeding Notice).

12 Moratorium Proceeding Notice, p. 1.

with the uncertainty of "whether and what remedies may be appropriate to compensate Con Edison's customers," and that, without having any report of Department of Public Service Investigative Staff to consider, it would be premature to make any determination in the rate proceeding that might result in conflicting findings once the Commission had the report in hand. In addition, the ALJ correctly observed that "[g]iven the scope of information with which the record would need to be supplemented, it is not practical to try and make that determination in these rate cases prior to the end of the suspension period."[13]

Concerns for administrative economy and consistency are proper exercises of discretion, and so no abuse of discretion occurred here, nor were the issues raised by EDF required to be considered by the ALJ or the Commission as a matter of law. The ALJ interpreted the Commission's Moratorium Proceeding Notice correctly as defining the scope of issues to be considered in the Moratorium Proceeding. Therefore, contrary to EDF's position, the ALJ was correct in determining that issues related to the Con Edison moratorium were not relevant to the gas rate case as a matter of law.

EDF's claims for extraordinary relief also rely on an incorrect assumption regarding the impact of the filed rate doctrine and its concomitant prohibition against retroactive ratemaking. While the doctrine does prohibit a utility commission from revising permanent rates retroactively to address mistakes or other issues discovered after final action has been taken on a utility's rate filing, it does not prohibit that commission from proactively reserving rights to reach back and make corrections for past acts that the regulator was aware

[13] Ruling to Exclude, p. 8.

of at the time rates were established, so long as provision is made in the rate plan to achieve such a result.[14]

EDF's interlocutory appeal refers to one such mechanism available to the Commission to make such an adjustment, the establishment of temporary rates. EDF is incorrect, however, when it argues that should we grant its motion and establish temporary rates for the Company's gas rate plan, we must also remand the case in this proceeding before all the same parties for a determination on all rate issues including, but not limited to, the moratorium and gas planning issues pursued by EDF.

Moreover, temporary rates are not the only mechanism available to us. As the ALJ noted, the Commission is fully familiar with all of the tools available to ensure that Con Edison's customers are not harmed. For example, in Case 07-E-0523, Con Edison's 2007 electric rates proceeding, the Commission specifically directed the Company to collect $236 million of its awarded electric rate increase through an adjustment clause rendering that subject to adjustment and refund while the Commission examined whether the Company's capital expenditures made under its previous rate plan were justified.[15] Similarly, in the Commission's order adopting a joint proposal in Con Edison's 2016 rate case, the revenue

---

[14] Natural Gas Clearinghouse v. Fed. Energy Regulatory Comm'n, 965 F.2d 1066, 1075 (D.C. Cir. 1992) (stating "it is not that notice relieves the Commission of the bar on retroactive ratemaking, but that it 'changes what would be purely retroactive ratemaking into a functionally prospective process by placing the relevant audience on notice at the outset that the rates being promulgated are provisional only and subject to later revision.'" Citing Columbia Gas Transmission Corp. v. FERC, 895 F.2d 791, 797 (D.C. Cir. 1990)).

[15] Case 07-E-0523, Con Edison - Rates, Order Establishing Rates for Electric Service (issued March 25, 2008).

requirements included the correction of alleged errors in the Company's method for calculating on retirement the cost of removal of plant in determining income tax expenses. While correction was made prospectively for cost recovery from 2017 through 2019, the Company was still subject to reconciliation under its previous rate plan. In the Commission's 2017 order approving the Con Edison's rate plan, provision was made for the Company to recover regulatory assets associated with the correction of the income tax errors subject to reconciliation pending the results of a Department of Public Service staff audit.[16]

Until the Moratorium Proceeding concludes, it is not possible for us to determine whether any relief may be necessary, and, if it is necessary, what form that relief should take. As an enforcement action, if any relief is determined to be warranted, penalties should suffice. Any penalties would be sought pursuant to Section 25-a of the Public Service Law, which preserves penalty dollars for the benefit of ratepayers, and therefore could result in the same impact as the remedy being sought by EDF.[17]

NOTICE AND PUBLIC COMMENTS

Notice of Con Edison's January 31, 2019 tariff filing was published in a newspaper of general circulation in its

---

[16] Cases 16-E-0060 et al., Con Edison – Rates, Order Approving Electric and Gas Rate Plans (issued January 25, 2017), pp. 42-43.

[17] PSL §25-a(7). Of note, when the Commission created the Moratorium Proceeding, it did not establish temporary rates on the existing rate plan. We see no reason to change that determination for the gas rate plan adopted herein finding that PSL § 25-a provides sufficient remedy if any remedy is found to be necessary.

service areas pursuant to PSL §§ 65 and 66.[18] Pursuant to the State Administrative Procedure Act (SAPA) § 202(1), Notices of Proposed Rulemaking for the Company's electric and gas tariff filings were published in the State Register on April 17, 2019.[19] On June 6, 2019, the Secretary issued a Notice Soliciting Comments and Announcing Public Statement Hearings. Public statement hearings on the Joint Proposal were held on June 25, 2019 in Yonkers and on June 26, 2019 in New York City. On November 21, 2019, the Secretary issued a Notice Announcing Public Statement Hearings and Extending Time for Comments. On December 11, 2019, public statement hearings on the Joint proposal were held in Yonkers and in New York City.[20]

Throughout the proceeding, the public filed written comments and made oral comments at the public statement hearings. Over three thousand comments were collected on the Department of Public Service Document and Matter Management (DMM) website. Virtually all commenters opposed Con Edison's requested rate increases. The public hearings collectively drew 32 commenters in June and 23 in November. Notably, appearing at the public hearings were representatives from the offices of State Senators Andrea Stewart-Cousins and Shelly Mayer. Both Senators expressed opposition to the rate increases citing affordability and other concerns. In addition, several other state and local representatives have provided letters during these rate proceedings opposing the rate increases.

---

18 On February 8, 15, 22 and March 1, 2019, Con Edison caused notice of the electric and gas rate tariff filings to be published in the New York Post, a newspaper of general circulation in the Company's service territory.

19 PSC SAPA Nos. 19-E-0065SP1 and 19-G-0066SP1.

20 Commissioners Diane Burman and Tracey Edwards joined the administrative law judge to preside at the December 11, 2019 public statement hearings.

Other groups whose constituents have submitted comments include AARP, PULP, Sane Energy, Mothers Out Front, and the Democratic Socialists of America. In summary, commenters expressed opposition to the rate increases and particularly with the size of the gas rate increases. Many comments focused on affordability concerns and the size of the increases. When discussing the size of the increases, topics including inflation rates and wage stagnation were often cited in the comments. Affordability remains the main concern of groups representing elderly and low-income customers. Other topics of concern raised in the comments concern climate change and the impact of gas infrastructure investments, as well as New York's renewable energy goals. Many comments cite ground source heat pumps as an alternative to investing in gas infrastructure and express concern that the investment provided for the gas system will eventually become stranded assets.

STANDARD OF REVIEW

The Commission will adopt the terms of a joint proposal where it finds that its terms, when viewed as a whole, produce a result that is in the public interest. Under the Commission's public interest standard, we evaluate a joint proposal to determine whether its terms fall within the range of a litigated outcome and, for rate cases, whether the rates proposed are just and reasonable and are in the public interest.[21] A joint proposal should balance protection of consumers with fairness to investors and the long-term viability of the utility. These considerations are "themselves elements of the public interest standard."[22]

---

[21] PSL § 65(1).

[22] Cases 90-M-0255, et al., Procedures for Settlements and Stipulation Agreements, Opinion 92-2 (issued March 24, 1992).

The parties to these proceedings were provided an opportunity to submit testimony and other evidence. They also were provided notice of and an opportunity to participate in settlement negotiations. In addition, parties having various diverse interests support the Joint Proposal here, including parties that are normally adverse.

Only one party, AARP, opposes the Joint Proposal on its broad-reaching terms. AARP takes issue with the size of the increases and points to several provisions that it claims unnecessarily increase the Company's revenue requirements but provide little to no benefit to residential customers. AARP takes issue with the return on equity included in the Joint Proposal claiming that its 50 basis point increase over Staff's testimonial recommendation is unwarranted. AARP also contends that the unwarranted equity return is exacerbated by the fact that the Joint Proposal's excess earnings sharing provisions are inadequate. AARP also takes issue with the positive earning adjustments mechanisms claiming that the amounts the Company might earn for performance are excessive. Other areas of concern raised by AARP include what it refers to as unwarranted toleration of the Company's escalated complaint rate which is among the highest of the State's combined utilities, the lack of clarity provided by the Joint Proposal as to the intent of a provision regarding the hiring of additional overhead line workers, and the fact that the low-income discounts that hold such customers harmless from the rate increases occur only in the first rate year. Finally, AARP argues that the Joint Proposal is not in the public interest because it includes reimbursement for the Company's trade association dues, includes increase to the monthly and customer charges for gas and electric, and does not include any adjustments arising from Con

Edison’s gas moratorium in parts of Westchester County; reasons also advanced by some of the other opponents.

As described in detail herein, we do not agree with AARP and we adopt the Joint Proposal in this Order. In our review of AARP’s objections, some of the party’s complaints argue that provisions could be improved, while other provisions are not clear or are not fair to some class of customers while benefitting others. However, as we consider the Joint Proposal and the numerous and diverse parties that support its terms, we do not find anything in AAP’s objections that rises to the level of rendering the Joint Proposal not in the public interest as a whole. In our view, the Joint Proposal has resulted from the bargaining of various interests as is made clear from the testimony filed in the underlying litigation. We are reticent to upset that balance where, as here, the Joint Proposal falls within the range of reasonable litigated outcomes and achieves a balance of multiple party interests. Moreover, having reviewed the Joint Proposal as discussed below, we conclude that the Joint Proposal is in the public interest and should be adopted as filed without modification.

The other opposing parties focus on discrete areas of concern mostly related to the inclusion of rate support for gas infrastructure as related to climate change concerns. EDF, Pace, Sane Energy, and AGREE oppose the Joint Proposal on limited grounds. Pace maintains that the Joint Proposal is not in the public interest inasmuch as it includes funding for natural gas infrastructure investment that Pace contends is not compatible with reducing reliance on fossil fuel-based energy. Pace also takes issue with the residential rate design arguing for allocating more of the revenue requirement to usage. Pace also takes issue with the Joint Proposal including an allowance for the recovery of certain trade association dues. EDF states that the Joint Proposal fails to consider the impacts of the Company's gas moratorium in parts of Westchester County and any associated changes that should be made to Con Edison's gas procurement and planning. EDF also takes issue with the Joint Proposal's failure to include more funding and planning for implementing advance natural gas leak detection. AGREE states that increases to the fixed charges in both electric and gas are not in the public interest. AGREE and Sane Energy echo Pace's objections to the inclusion of funding for new natural gas infrastructure investments.

A party may challenge a joint proposal on limited grounds or a single issue, however, such a party must demonstrate that the issue is so contrary to the public interest that the terms of the joint proposal should not be adopted. In limited instances, we may propose a modification to the Signatory Parties' proposals where we identify a concern with some discrete term. In deliberating over whether to make such a modification, we are cognizant of the fact that the terms of agreement have been arrived at through negotiation by parties who may have made concessions to receive the benefit of those terms, and so we take such action only where the public interest compels the modification. Here, we note that the terms of the Joint Proposal indicate that the settling parties made genuine efforts to address the concerns of nearly all the parties. We find no procedural irregularities or unfairness in the process.

We conclude that the Joint Proposal in this case was developed fairly and provided a full opportunity for participation by all interested parties and the public. The Joint Proposal is, therefore, properly before us for a determination of its consistency with the Commission's settlement guidelines and the public interest.

THE JOINT PROPOSAL

Rates and Revenue Levels

Electric and Gas Revenue Levels

The Joint Proposal's electric rate plan allows for increases to the Company's electric delivery service rates and charges designed to produce an additional $113.3 million in revenues on an annual basis starting in Rate Year (RY) 1, an additional $370.3 million increase in revenues on an annual basis starting in RY2, and an additional $326.4 million increase in revenues on an annual basis starting in RY3. Although the Signatory Parties have proposed that the changes to Con Edison's electric revenues can be adequately implemented as designed, the Joint Proposal's gas delivery revenue increases mitigate potential bill volatility, a process commonly referred to as levelizing the rate increases. As levelized,[23] the rate plan allows for increases to Con Edison's retail gas sales and gas transportation service rates and charges that are designed to produce a $47.2 million increase in revenues on an annual basis starting in RY1, an additional $176.3 million increase in revenues on an annual basis starting in RY2, and an additional $170.3 million increase in revenues on an annual basis starting in RY3:

The foregoing changes, as implemented in the Joint Proposal, are shown (in millions) in the following table:

	Rate Year 1	Rate Year 2	Rate Year 3
Electric	$113.3	$370.3	$326.4
Gas	$47.2	$176.3	$170.3

[23] Without levelization, the gas revenue increases for RY1, RY2 and RY3 would have been $83.9 million, $122.0 million and $167.0 million, respectively.

The next table shows the increase in Con Edison's delivery revenue requirements as a percentage of the Company's delivery revenues and total revenues.[24] The percentages are based on a revenue impact that includes the elimination of the Federal Income Tax sur-credit (approximately $267 million for electric and $117 million for gas) and a reduction in the Energy Efficiency Transition Implementation Plan surcharge (approximately $89 million for electric and $15 million for gas) due to these items being collected through base rates in the new rate plan. The net increase related to these two items is $178 million for electric and $102 million for gas; and the overall increases are $291 million and $149 million for electric and gas, respectively.

	Rate Year 1	Rate Year 2	Rate Year 3
Electric	4.6%/3.1%	5.7%/3.8%	4.7%/3.3%
Gas	10.9%/6.7%	11.4%/7.3%	9.7%/6.5%

For average residential customers,[25] the approximate dollar increases and percentage increases on a customer's total monthly bill under the terms of the Joint Proposal are:

	Rate Year 1	Rate Year 2	Rate Year 3
Electric	$5.46 (4.2%)	$6.37 (4.7%)	$5.65 (4.0%)
Gas	$11.37 (7.5%)	$14.44 (8.8%)	$12.86 (7.2%)

The Company will be allowed to recover the entire RY1 increases over the months remaining in that RY through the

---

[24] The percent-increases for total revenue are based on total system sales, which include commodity costs of ESCO served customers.

[25] The average residential customer refers to a non-heating electric customer using 600 kWh per month and a residential gas heating customer using 100 Ccf per month.

Commission’s allowance of a “make whole” provision in its order of December 16, 2019.[26] The “make whole” applies to both electric and gas to provide Con Edison the same revenues it would receive had rates gone into effect on January 1, 2020.

Discussion

The Joint Proposal’s three-year electric and gas rate plans are reasonable, given the Company’s demonstration of need and the major drivers associated with the rate increases. The rates proposed are significantly less than the increase initially requested by the Company. The rate plans were thoroughly vetted by Staff and the parties, as evidenced by the extensive evidentiary record. Additionally, for Con Edison’s gas business, the Joint Proposal provides customer benefits afforded by multi-year rate plans through the mitigation of bill impacts over three years.

The three-year rate plan is beneficial because it will allow Con Edison to focus attention on managing its electric and gas businesses rather than filing annual rate cases. At the same time, it will save valuable Staff and intervening party resources. The Joint Proposal also creates rate certainty, which benefits customers and the Company, as well as market participants seeking to provide new or enhanced products and services by allowing long-term planning efforts.

While striking a fair balance between the interests of ratepayers and investors, the Joint Proposal provides the Company an opportunity to earn a fair rate of return that will support its ability to continue to access reasonably priced capital. The rate increases will allow the Company to replace aging infrastructure and to modernize its systems and help the

---

[26] Cases 19-E-0065 et al., Con Edison – Rates, Order on Extension of Maximum Suspension Period of Major Rate Filings (issued December 16, 2019).

State meets its conservation and energy policy goals. The scale of the Joint Proposal's capital programs is necessary to enable the Company to continue to provide safe and reliable service. The rate increases also will allow the Company to meet its legal obligations for items like site investigation and remediation costs and property taxes. For these reasons, we find the rates proposed under the three-year rate plans to be just and reasonable.

Sales Forecasts

The Joint Proposal's electric rate plan is premised upon a total electric delivery volume forecast of 54,986 gigawatt hours (GWh), producing revenues of $5.665 billion, in RY1. For RY2 and RY3, electric delivery volume forecasts of 54,079 GWh and 53,361 GWh, respectively, with the associated total revenues of $5.961 billion and $6.246 billion.[27] For gas, the Joint Proposal forecasts total operating revenues of $2.440 billion for RY1, followed by $2.583 billion for RY2 and $2.756 billion for RY3.[28]

In its initial filing, Con Edison's testimony reported a total electric delivery volume for the 12 months ended September 2018 of 56,943 GWh. After applying a normalization factor to the actual experienced delivery volumes, Con Edison reported normalized volumes of 55,585 GWh. Based on the foregoing, the Company forecast delivery volumes of 54,047 GWh for RY1, 52,757 GWh for RY2, and 51,751 GWh for RY3.[29] As noted by Staff, the Company's RY1 electric delivery volume forecast represented a decline of 1,538 GWh, or 2.8 percent, from the

---

27 Joint Proposal, Appendix 4.

28 Joint Proposal, Appendix 5.

29 Hearing Exhibit 57, Con Edison Electric Volume and Revenue Forecasting Panel Direct Testimony pp. 5-6.

September 2018 test year, weather normalized sales of 55,585 GWh. In response, Staff testified to a sales volume forecast of 55,009 GWh, 962 GWh, or 1.8 percent, above the Company's forecast.[30]

For gas, Con Edison reported that it experienced September 2018 test year actual firm delivery volumes of 168,484 MDt (one thousand dekatherms) normalized to 168,819 MDt. Based on the foregoing, the Company forecast delivery volumes of 175,778 MDt for RY1, 176,332 MDt for RY2, and 177,995 MDt for RY3.[31] Con Edison's volume forecasts produced anticipated total system revenues for RY1 of $2,192,774 billion at its existing rates and $2,400,869 billion at its proposed rates, with anticipated total system revenues at existing rates of $2,184,338 billion and $2,221,307 billion for RY2 and RY3, respectively.[32] Staff testified that the Company's RY1 forecast was reasonable as it matched well with Staff's forecast.[33]

Discussion

Both of the Joint Proposal's electric and gas sales forecasts are reasonable given the litigated positions of Con Edison and Staff.

Revenue Decoupling Mechanism

The Joint Proposal contains electric and gas Revenue Decoupling Mechanisms (RDM). The RDM is a mechanism included in most utility rate plans that is designed to reconcile deviations in the projections of sales revenues from certain rate classes with the amounts actually collected. These mechanisms are

---

30 Hearing Exhibit 384, Direct Testimony of Anping Liu pp. 3-4.

31 Hearing Exhibit 189, Gas Volume and Revenue Forecasting Panel Direct Testimony pp. 4-5.

32 Hearing Exhibit 192.

33 Hearing Exhibit 442, Direct Testimony of Brian D. Fisher p. 6.

intended to diminish any disincentive to encourage or otherwise support customer conservation efforts.

The Joint Proposal proposes that the Commission modify the Company's electric RDM with regard to Con Edison's Low-Income Program costs. The Joint Proposal resets the Company's Low-Income Program costs to $70.9 million and recovers the costs in rates. The Company is allowed to reconcile the costs of the program with variances, whether additional recoveries or required refunds, through the RDM in each Rate Year.

In addition, the Joint Proposal modifies Con Edison's natural gas RDM. The Company's gas RDM going forward will change from a Revenue per Customer model to a Revenue per Class model.

Discussion

The RDM remains an important tool in rate plans to eliminate disincentives that may exist for utilities to promote conservation efforts. The Joint Proposal's Low-Income modifications for both the collection of costs and use of the RDM are consistent with the Commission's evolving policy for the recovery of costs related to assisting those in need for managing their utility bills. The gas RDM modification is consistent with the Commission's recognition that incentives that reward utilities for expanding their gas customer base should be eliminated while we consider policy changes that may need to occur to address important environmental issues, including the promotion of cost-effective energy conservation, the increased use of renewable resources, and the decreased use of fossil fuels.

Cost of Capital and Capital Structure

The Joint Proposal's revenue requirements reflect an overall cost of capital of 6.61 percent, consisting of an allowed Return on Equity (ROE) of 8.8 percent, a common equity ratio of 48.0 percent, a long-term debt ratio of 50.91 percent with a cost rate of 4.63 percent, and a customer deposit ratio of 1.09 percent with a cost rate of 2.45 percent. The ROE and common equity ratio are applicable across the entire three years of the electric and gas rate plans. The customer deposit ratio decreases to 1.02 percent in RY2 and 0.97 percent in RY3, resulting in a corresponding increase in the long-term debt ratio to 50.98 percent in RY2 and 51.03 percent in RY3.

In testimony, Con Edison's expert recommended an allowed ROE of 10.0 percent. The recommendation for 10.0 percent was based, in part, on the Company's request that the Commission reconsider its ROE calculation in its generic financing methodology.[34] In addition, Con Edison requested that rates be set using a common equity ratio equal to 50 percent. Staff, relying on the Commission's cost of capital calculation in its generic financing methodology, recommended an allowed ROE of 8.3 percent. Staff also recommend that the Commission apply a common equity ratio of 47.3 percent. Finally, Staff recommended a 4.68 percent long-term debt cost rate in contrast to Con Edison's request of 4.79 percent.

Discussion

The Joint Proposal's 8.8 percent ROE is reasonable given the current financial market conditions as well as the increased financial and business risks inherent in setting rates over a multi-year period. The Joint Proposal's allowed ROE is significantly reduced from that requested by Con Edison in its filing and is slightly lower than the ROE we allowed Con Edison's affiliate Orange and Rockland Utilities, Inc. (O&R) in

[34] Hearing Exhibit 28, Cost of Capital Direct Testimony pp. 10-13.

the Commission's 2019 O&R Rate Order.[35] While the difference is largely attributable to market conditions that have evolved since our 2019 O&R Rate Order, the Joint Proposal adopts a fair return that is expected to allow Con Edison to attract adequate capital to fund its anticipated investments, ensuring continued provision of safe and adequate service in the Company's service territory.

Although some parties opposing the Joint Proposal objected to the Joint Proposal's ROE, no objecting party submitted testimony countering Staff's finance panel. Instead, those parties mostly urged us to reduce the allowed ROE to address what those parties have characterized as Con Edison's failure to adequately plan for its gas supply and resulting moratorium of new gas service connection in parts of Westchester County. As we deal with that issue later in this Order, we see no reason to modify the Joint Proposal's allowed ROE here.

As for the increase of the Joint Proposal's ROE over the amount testified to by Staff, the Joint Proposal properly recognizes the increased financial and business risks inherent in setting rates over a multi-year period. As we have recognized previously, the extended term of the Joint Proposal inherently carries more financial risk as investors are subject to additional risk that economic conditions may change and the actual cost of capital could change during the three-year term. Further, because the Joint Proposal locks in forecasted amounts for numerous significant elements of expense for the three-year term, Con Edison is exposed to the business risk that its actual operating costs will turn out to be greater than those allowed

[35] Cases 18-E-0067, et al., Orange and Rockland Utilities, Inc. -Rates, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans (issued March 14, 2019) (O&R Rate Order).

for in the Company's rates. This aspect of multi-year rate plans and its impact on overall business risk has accordingly been recognized by the Commission when adopting the allowed ROEs incorporated in long-term rate plans.

In addition, the reasonableness of the Joint Proposal's ROE is further supported by Con Edison's agreement to impute into its revenue requirements significant amounts of savings that are reflected in reductions to its anticipated O&M costs that are attributable to implementation of its BCO. The Joint Proposal imputes these BCO savings into the Company's revenue requirements in addition to imputing more traditional productivity savings that are typically included in rate case Joint Proposals.[36]

Earnings Sharing

The Joint Proposal provides for earnings sharing mechanisms during the three-year term of the Rate Plans, with a sharing threshold of 9.3 percent (Earnings Sharing Threshold), 50 basis points above the recommended ROE of 8.8 percent.[37] The Joint Proposal also provides for three tiers or bands of earnings sharing. If the Company's earned ROE exceeds the 9.3 percent Earnings Sharing Threshold, but is less than 9.8 percent in Rate Years 1, 2 or 3, then those earnings would be shared equally (50 percent/50 percent) between the Company and its customers. Earnings at or above 9.8 percent but less than 10.3 percent, would be shared 25 percent/75 percent between the Company and its customers, respectively. Earnings of 10.3 percent and above are to be shared 10 percent/90 percent between the Company and its customers, respectively.

[36] These items are discussed in the section on Business Cost Optimization and Productivity, *infra*, pp 32-34.

[37] Joint Proposal, pp. 23-26.

The Joint Proposal provides that the actual earned ROE will be calculated on a per book basis, that is, from Con Edison's books of account for each rate year, excluding: (1) the effects of any Company incentives and performance-based positive and negative revenue adjustments; (2) other positive incentives such as those related to the Brooklyn Queens Demand Management Response Program or Non-wires Alternatives; (3) the effects of Earnings Adjustment Mechanisms; (4) the Company's share of any property tax refunds realized during the rate year; (5) any other Commission-approved ratemaking incentives and revenue adjustments in effect during the applicable Rate Year; and (6) the amount of expense for awards under the Company's Executive Incentive Program.[38] The Joint Proposal also provides that the calculation of earnings will reflect the lesser of a 50 percent equity ratio or the Company's actual average common equity ratio.[39]

The Joint Proposal specifies that for shared earnings in any rate year, the Company is to apply one-half of its own portion of shared earnings, and all of the customers' portion, to reduce electric and gas deferred under-collections of environmental site investigation and remediation (SIR) program costs. The Joint Proposal further specifies that to the extent shared earnings available to reduce deferred SIR costs exceed uncollected SIR costs, Con Edison is to reduce other interest-bearing deferred costs accumulated in the rate year.[40] The Company's annual earnings report must include the amount of SIR

[38] Id., p. 24. The incentives and performance-based revenue adjustments are identified in Appendices 14-19 of the Joint Proposal.

[39] Id., pp. 24-25.

[40] Id., pp. 25-26.

program and other deferred costs written down with shared earnings.[41]

The Joint Proposal's provisions for both the electric and gas earnings sharing mechanisms, including those relating to the Company's application and disposition of shared earnings to SIR costs and other deferred costs, would continue after the expiration of the rate plans and would remain applicable until base rates are reset by the Commission.[42] Thus, if the Company "stays out" and does not file tariffs for new delivery rates within 15 days after Rate Year 3 expires, the earnings sharing provisions will continue until the Commission resets rates.[43] If the "stay out" period is for a period that cannot be measured in full years, the Joint Proposal recommends a mechanism to properly adjust earnings for any partial period.[44]

Discussion

The Joint Proposal's earnings sharing mechanisms benefit both customers and the Company by providing a financial incentive to maximize efficiencies and in the potential reductions to SIR and other deferrals. The Joint Proposal's multiple shared earnings tiers are consistent with rate plans previously approved by the Commission.

The Joint Proposal's terms are also consistent with the SIR Cost Order.[45] The SIR Cost Order recognized that excess

---

41 Id., p. 26.

42 Id., p. 25.

43 Id.

44 Id. and Joint Proposal, Appendix 12.

45 Case 11-M-0034, Proceeding on Motion of the Commission to Commence a Regulatory Review and Evaluation of the Treatment of the State's Regulated Utilities' Site Investigation and Remediation Costs, Order Concerning Costs for Site Investigation and Remediation (issued November 28, 2012) (SIR Cost Order).

earnings were well-suited for use in paying SIR costs. The SIR Cost Order established cost and compliance reporting requirements and best practices for SIR cost containment in order to minimize impacts on ratepayers, particularly when current ratepayers do not benefit from contaminated sites and there is the potential to create an inter-generational inequity problem.[46] Moreover, for any shared earnings applied against SIR, Con Edison benefits by accelerating its recovery of a regulatory asset, while the Company's customers correspondingly benefit by future reductions to rate base due to the decreased amount of the SIR-related regulatory asset balances. This provision of the Joint Proposal achieves an appropriate balance between ratepayers and shareholders and is therefore in the public interest.

Supply and Supply-related Adjustments

The Joint Proposal continues Con Edison's use of standard, currently-effective adjustment mechanisms that provide for the recovery of various supply and supply-related costs. For electric, these mechanisms include the Company's Market Supply Charge (MSC), Monthly Adjustment Clause (MAC), and its NYPA Surcharge to recover its purchase power costs and embedded generation costs. For gas, Con Edison's adjustment clauses for gas supply and supply-related costs include its Monthly Rate Adjustment (MRA), Gas Cost Factor (GCF), and Daily Delivery Service (DDS) charges. The Joint Proposal also details certain additional costs that will be recovered through these mechanisms during its term.

Discussion

The inclusion of these adjustment mechanisms is reasonable. Adjustment mechanisms are appropriate where a

46 SIR Cost Order, p. 31.

utility is recovering costs or incentives and the amounts to be recovered are either not yet known, subject to a cap, or would otherwise be subject to reconciliation. These mechanisms provide flexibility that allows a utility to make adjustments during the term of a rate plan, limiting the need for deferral accounting measures that stay on the Company's books until rates are next reset by the Commission. These mechanisms also allow distribution utilities that are not in the generation business to provide for the full pass through of costs over which the Company has no control.

Federal Tax Cuts and Jobs Act of 2017

In 2017, Congress passed the Tax Cuts and Jobs Act of 2017 (2017 Tax Act), which, among other things, lowered the highest corporate federal income tax rate from 35 percent to 21 percent and eliminated bonus depreciation. Consequently, the Commission issued an order directing New York utilities to preserve for the benefit of ratepayers the net savings resulting from the 2017 Tax Act through deferral accounting until all net benefits are reflected in rates.[47]

In its initial tariff filings in January 2019, Con Edison proposed revenue requirements that reflected the reduction in the tax rate and the termination of bonus depreciation. The Company proposed to amortize deferred net benefits realized from the tax reforms in 2018 over a three-year period starting January 2020 for electric and a two-year period for gas as there are two years remaining for the three-year amortization of the benefit that started in January 2019.[48] Con

---

47 Case 17-M-0815, Proceeding on Motion of the Commission on Changes in Law that May Affect Rates, Order Determining Rate Treatment of Tax Changes (issued August 9, 2018) (Tax Act Order).

48 Exhibit 2, Accounting Panel Direct Testimony, pp. 44-45.

Edison also proposed to refund the protected asset related excess deferred federal income taxes (EDFIT) benefits to customers over the average remaining life of the underlying plant assets, and the unprotected EDFIT balances over a five-year period.[49]

In its testimony, Staff agreed with Con Edison’s treatment for the EDFIT balances because it was consistent with Internal Revenue Service (IRS) regulations and provided a proper balance between considerations for rate mitigation and rate stability. Staff also noted that it did not support a shorter refund period for unprotected EDFIT balances because such balances are not recurring benefits, and, thus, passing those benefits back more rapidly in larger blocks would create a need for additional rate relief in the Company’s next rate proceeding to make up for the expired credit.[50]

Discussion

The Joint Proposal’s treatment of the balances created by the 2017 Tax Act strikes a balance that benefits the Company’s customers. While it provides relief for the Joint Proposal’s rate increases, it also serves to mitigate the impact of expiring balances for future rate proceedings. Although the Joint Proposal does not pass back some of the EDFIT as quickly as some parties desired, the Joint Proposal’s schedule addresses the concern that a future change in the federal tax laws calling for a tax hike would require a costly reversal, resulting in a potentially significant cost to ratepayers.

---

[49] Exhibit 21, Income Tax Panel Direct Testimony, p. 10.

[50] Exhibit 397, Direct Testimony of Jerry (Hongbing) Shang, pp. 25-27.

Business Cost Optimization and Productivity

The Joint Proposal imputes certain anticipated savings to Con Edison's revenue requirements. Of note, the Joint Proposal's electric and gas revenue requirements reflect a productivity adjustment of 1 percent in RY1, an additional 1.5 in RY2, and an additional 2 percent in RY3. Additionally, the Joint Proposal includes imputed savings related to Con Edison's BCO program. In its initial filing, Con Edison requested that the Commission provide it with an incentive, the proceeds of which it offered to share with customers, based on achieving certain levels of cost savings related to its BCO program.

In the Joint Proposal, Con Edison agreed to forego the possibility of earning an incentive but agreed to impute anticipated savings on its O&M costs of approximately $93 million in RY1 and cumulative annual savings of $179 million by RY3. In addition, the Joint Proposal does not allow for any reconciliation or adjustment mechanism to mitigate the Company's risk if the imputed savings are not realized.

Discussion

The level of imputed savings in the Joint Proposal is significant. By foregoing its litigated position seeking an incentive mechanism to share in any BCO savings, the Company is providing its customers with a substantial benefit. The combined BCO and productivity savings included in the Joint Proposal's revenue requirements total $104 million in RY1, with additional incremental savings of $76 million in RY2 and additional incremental savings of $47 million in RY3. Cumulatively, the imputed electric and gas savings over the term of the proposed three-year rate plan amount to just over one-half of a billion dollars, or approximately eight times the Commission's traditional one percent productivity adjustment. Importantly, customers will realize the benefit of these savings regardless of whether the Company can achieve its forecasted cost reductions as there is no reconciliation provision in the Joint Proposal attached to the imputed savings. Because of this, Con Edison bears all the risk of not achieving its expected efficiencies. We commend Con Edison for its BCO initiative and including a substantial benefit to ratepayers in the rate plans and encourage other utilities in New York to take note.

Pensions and Other Post-Employment Benefits (OPEBS)

Under the Commission's policy statement regarding Pensions and OPEBS, a utility can recover its prudently incurred costs to fund retirement benefits to help it attract qualified personnel. While the revenue requirements are based on forecasted costs for pension and OPEBS, joint proposals allow for reconciliation of such costs consistent with our Pension and OPEB Policy Statement.[51] The Joint Proposal includes costs for pensions and OPEBs in its revenue requirements based on a three-year average of the forecasted expenses. The Joint Proposal imputes into the electric and gas revenue requirements a combined pension/OPEBs expense of $67.6 million (approximately $56.1 million for electric and $11.5 million for gas) using a three-year average for each Rate Year, plus carrying costs at the Company's debt rate. The carrying costs are included by the Signatory Parties to recognize the lag between Con Edison's incurring the expenses and the Company's recoveries by use of a three-year average for setting the rates.

[51] Case 91-M-0890, Accounting and Ratemaking Treatment for Pensions and Postretirement Benefits Other Than Pensions, Statement of Policy and Order Concerning the Accounting and Ratemaking Treatment for Pensions and Postretirement Benefits Other Than Pensions (issued September 7, 1993).

The Company and Staff indicate that an average expense allowance was found to be the best method for providing for cost recovery as the underlying annual forecasts were extremely volatile. This volatility is due primarily to actuarial losses stemming from the 2008 decline in financial markets being fully amortized consistent with the Commission's policy statement. Based on the record, the combined pension and OPEBs expense is forecasted to decrease from a positive $189.5 million (combined electric and gas) in RY1 to a negative $86.0 million in RY3, resulting in a $275.5 million difference between the first and third rate years.[52]

Discussion

We agree with the parties that, given the circumstances, the use of a three-year average is not only reasonable, but preferred for these rate plans. If the Company were to experience an increase in actual expenses in RY3, the absence of rate recovery for actual expenses could be a driver for a rate increase at the end of the Joint Proposal's three-year term. The Joint Proposal's provisions for the amounts included in the three-year revenue requirements along with an allowance for carrying charges are reasonable to mitigate the potential for this expense to be a rate driver in the next rate proceeding. An additional benefit of using a three-year average is the effect eliminating the expense volatility from the Company's rates, particularly regarding its electric delivery rates. Finally, we note that, consistent with the Commission's Policy Statement, the Joint Proposal provides for full reconciliation of the expenses during the term of the rate plan.

[52] Hearing Exhibits 216 and 217, AP-E3 June 14, 2019 Update and AP-G3 June 14, 2019 Update, Schedule 6 – O&M Electric and Gas Expenses, Line 55.

Miscellaneous Revenues

Electric Revenues

During the rate plan, Con Edison may incur charges or receive refunds from PJM Interconnection L.L.C. related to a former 1000 MW firm transmission service agreement. The Joint Proposal provides for a pass through to Con Edison's customers through the MAC and from NYPA through the NYPA Statement of Other Charges and Adjustments any billing adjustments associated with this transmission service. In Case 13-E-0030, the Commission capped NYPA's share of any amounts to be recovered or credited from the service agreement. The Joint Proposal continues the cap, which is prorated should any service agreement amounts cover less than a full rate year.

Gas Revenues

The Joint Proposal includes a base rate revenue imputation from non-firm revenues for Con Edison's gas rate plan. The Company classifies non-firm revenues as those that the Company generates through interruptible service and efforts to maximize value from interstate pipeline capacity acquired to meet the needs of firm gas customers, through strategies such as capacity release and asset management transactions. In the Joint Proposal, Con Edison's firm delivery rates are reduced by $65 million with a sharing mechanism that credits to customers 85 percent of any actual revenues in excess of the $65 million imputation.

The Joint Proposal modifies Con Edison's line loss factor (LLF)[53] for calculating the effect of lost and unaccounted for gas (LAUF) on the Company's revenues. Under the methodology contained in previous Company gas rate plans, metered gas for

[53] For Con Edison, "line loss factor" refers to lost and unaccounted for gas and is not a term necessarily used by other New York natural gas distribution companies.

inactive accounts was included in the LLF calculation. In this case, although there is metered gas for the account, there is no customer of record. In the Joint Proposal, Con Edison agrees to remove inactive account metered gas from its calculation either where the account has an installed and operating AMI meter or where the Company otherwise has obtained relevant usage data. This change to the LAUF calculation takes effect beginning with the 12-month period ending August 2021.

Additionally, the Joint Proposal discontinues Con Edison's oil to natural gas conversion program. The program provided financial incentives to residential and commercial customers to convert their oil burning equipment to natural gas. Funding for the conversion program had been included in past Con Edison gas rate plans.

Discussion

The foregoing provisions are reasonable. The electric revenue sharing mechanism related to Con Edison's former transmission service agreement represents a fair allocation of cost responsibility for all customers potentially impacted by billing adjustments associated with that agreement. In addition, the provision has been agreed to by many parties who are affected by its terms.

The gas imputation of non-firm revenues is also a fair forecast and provides for potential revenue sharing with an incentive to the Company to achieve those additional revenues. The LAUF LLF calculation change benefits customers but recognizes that the Company retains the ability to control its exposure by shutting off inactive accounts where the gas usage is known or fairly estimated. Evidence of natural gas usage where there is no customer of record should not be allowed as it could represent a safety hazard, particularly if it is due to gas leakage. Finally, given the Company's evolving challenges in meeting increased peak day demand and State's policies to further reduce reliance on fossil fuels, it is reasonable now to end customer and Company-supported conversion programs.

Capital Expenditures

The Joint Proposal's revenue requirements are based in part on forecast additions to and retirement from plant-in-service which are derived from Con Edison's capital expenditure plans. The balances used for electric service are contained in Appendix 8 and, for gas service, in Appendix 9 of the Joint Proposal. These balances are based on forecast amounts that have been reviewed by Staff during its examination of Con Edison's projects and programs. As is common in utility rate plans, while the amounts are set by forecasts for specific projects, the Joint Proposal allows Con Edison flexibility to adjust its spending based on the need to reprioritize and address evolving situations. This flexibility is important as it provides the Company the ability to make adjustments to its plans to maintain safe, adequate and reliable service especially where situations develop during a rate plan that require a shift in resources. However, the Company is always required to make only those investments that are prudent and necessary to serve its customers.

To satisfy the Commission's oversight requirements and to assure the Commission that the capital expended by Con Edison is prudent, the Joint Proposal provides for substantial periodic reporting. To provide adequate information to Staff and the Commission, the Joint Proposal institutes a new quarterly reporting requirement on the Company's electric business. Heretofore, the Company has provided the Commission with annual reports. For the Company's gas business, reports are required twice a year to be filed in February and in August. In addition, the Joint Proposal requires that the Company report not just expenditures made solely for Con Edison’s gas and electric services, but that it also reports on its common capital expenditures. This additional requirement provides the Commission and Staff with additional information that fosters transparency in the Company’s capital spending.

The Joint Proposal supports planned electric capital spending of $1.821 billion in RY1, $1.875 billion in RY2, and $1.802 billion in RY3. For gas capital expenditures, the Joint Proposal anticipates that the Company will spend $989,522 million in RY1, $985,386 million in RY2, and $964,536 million in RY3.[54] Further discussion of the reconciliation mechanisms attached to the Company’s capital expenditures is included in the next section.

The Joint Proposal also continues the Company’s electric Non-Wires Alternative (NWA) adjustment mechanism and introduces a similar Non-Pipelines Alternative (NPA) adjustment mechanism for gas. Under the new NPA mechanism, the difference in costs between an NPA implemented during the term of the Proposal and costs in rates associated with the displaced project, including the overall pre-tax rate return on such costs, will be recovered as a regulatory asset through Con Edison’s Monthly Rate Adjustment clause. Unamortized NPA costs, including the return, will be incorporated into the Company’s base rates when gas base delivery rates are reset. These provisions are included to provide an incentive to the Company to pursue cost-effective alternatives to traditional electric

[54] Joint Proposal, Appendix 8, p. 4 (electric) and Appendix 9, p. 4 (gas). The amounts noted here include capital expenditures for common plant but exclude money for Con Edison’s Advanced Meter Initiative and Customer Service System, both of which are reconciled separately from the capital expenditure net plant tracking mechanism.

and gas infrastructure investment in furtherance of Commission policy.

Discussion

The Joint Proposal's capital expenditure amounts are reasonable. The money will allow Con Edison to maintain safe and adequate service meeting its obligations under the Public Service Law. The Joint Proposal's forecasted capital expenditures are also necessary to advance the Commission's and State's clean energy goals. The projects underlying the forecasts were reviewed by Staff and the other parties. Staff, after making certain adjustments, found the projects to be necessary and appropriate. In particular, the NPA mechanism will advance the Company's ability to use non-traditional methods to defer or avoid traditional gas infrastructure at a time when the State's policy on natural gas delivery is evolving.

Reconciliations

The Joint Proposal provides for the reconciliation of several costs and revenues to the levels provided for in the proposed revenue requirements. The Joint Proposal recommends that for reconciled items the variances from levels provided in rates be deferred and that the determination of how the balances are collected or passed back to customers be made by the Commission in the Company's next rate cases. Reconciliations are appropriate and protect customers and the utility when significant costs are difficult to forecast over multiple years with reasonable certainty. Reconciliations may be made in whole, where the entire difference between the forecasted expense and actual expense is reconciled, or in part, where only some portion, often set by a percentage, of that difference is collected or refunded. Where a risk is associated as part of the normal course of business, or is reasonably foreseeable, or is somewhat controllable by the utility, a partial reconciliation favoring customers' interests may be appropriate to provide a financial incentive to minimize costs. This section examines some of the Joint Proposal's significant reconciliation provisions.

Among the reconciliation mechanisms continuing from the prior rate plan, the Joint Proposal recommends a full reconciliation of environmental cleanup costs, commonly referred to as SIR costs, as well as a full reconciliation of Con Edison's pension and OPEB costs. No party contested the continuation of these reconciliations and they are consistent with the Commission's policy statements.[55]

Property Taxes

The Joint Proposal provides for a property tax true-up where variations from projections in the taxes paid by Con Edison are shared between customers and the Company on a 90 percent/10 percent basis, respectively. Thus, where actual property taxes are less than the forecast, customers will be refunded 90 percent of the difference. Where the property tax paid by Con Edison is greater than the amount collected in rates, customers will pay only 90 percent of the shortfall. Additionally, the Company's 10 percent share, both above and below the level included in rates, is capped for each of the three rate years at 10 basis points, 7.5 basis points and 5

---

[55] See Case 11-M-0034, Review of Utilities' Site Investigation and Remediation Costs, Order Concerning Costs for Site Investigation and Remediation (issued November 28, 2012).

basis points[56] of its return on common equity for RY1, RY2 and RY3, respectively.

Net Plant

As with other recent New York utility rate plans, the Joint Proposal includes a tracking and reconciliation mechanism applicable to its net plant in service targets. Net plant reconciliation mechanisms are often used to protect ratepayers from excessive capital spending and so are implemented asymmetrically. Should a utility subject to a net plant reconciliation not meet its targeted net plant-in-service, the utility must preserve for refund to its customers the revenue requirement impact associated with net plant investment that is not made. Conversely, the asymmetrical nature of the mechanism requires a utility to absorb the revenue requirement impact associated with capital expenditures that result in net plant levels that exceed a rate plan's stated targets. This asymmetry is intended to encourage a utility to stay within its forecasted budgets and to meet its projected in-service dates for its plant investment. Through these mechanisms, customers are given some assurance that they are paying rates that support actual investments that are in service, and not just rates designed to recover a forecast amount that, if not used, could be used again to support a future rate increase request.

The Joint Proposal's electric and gas net plant targets appear in Appendix 8 and Appendix 9, respectively. The targets were arrived at through negotiation after Staff's review of the Company's proposed capital programs and projects. The

---

[56] Appendix 23, page 2, of the Joint Proposal indicates that the value of one pre-tax basis point in electric is $1.45 million for RY1, $1.52 million for RY2, and $1.60 million for RY3, and for gas, $480,000 for RY1, $530,000 for RY2, and $580,000 for RY3.

Joint Proposal provides that Con Edison for reconciliation purposes, the three RY targets are cumulative in that the Company's achievement of such targets is calculated at the end of RY3. Therefore, a revenue requirement impact deferral will be required under this provision of the Joint Proposal only if the cumulative revenue requirement impact of the Company's actual average net plant for the 36-month period covered by the electric and gas rate plans are below the amount included in the average plant in service targets in Appendices 8 and 9.

In addition, the Joint Proposal allows Con Edison to defer for future recovery from customers carrying charges on average net plant in service capital costs resulting from certain municipal infrastructure support-related projects. The upward reconciliation is capped at 20 percent above the Joint proposal's capital expenditure targets. To qualify for this deferral, the costs must be incurred due to either the Van Wyck Expressway project or the East Side Coastal Resiliency project, and only to the extent the Company's capital expenditures related to those activities result in total actual average net plant in service exceeding the Average Electric Plant in Service Balance in any or all Rate Years. This provision was included by the parties to address the financial risk associated with those two projects that may occur during the term of the Joint Proposal. As interference related costs, the Company has a lesser amount of control over the scheduling and scope of those projects. All other municipal interference costs will be subject to a downward only reconciliation.

AMI and CSS Net Plant

The Joint Proposal includes individual tracking and reconciliation mechanisms for Con Edison's AMI rollout, which is expected to be completed in 2022 and for the Company's capital expenditures for its new Customer Service System project (CSS),[57] which is expected to be completed in 2023.

In its order that approved Con Edison's AMI implementation, the Commission capped the Company's expenditures at $1.285 billion.[58] The AMI net plant reconciliation in the Joint Proposal is consistent with the AMI Order. The Joint Proposal's electric and gas revenue requirements reflect the AMI plant in service balances for each rate year allocated by service. After completion of its AMI deployment, the Company will reconcile its actual expenditures to its forecast under the cap, as well as determine if any credit is due Con Edison for earlier than expected completion. If the actual capital expenditures result in a revenue requirement that is lower than the net plant associated with the $1.285 billion of capital expenditures, Con Edison will defer that amount for the benefit of customers.

The Joint Proposal's CSS adjustment mechanism reflects the Company's agreement to a Staff proposed cap on capital expenditures for the new CSS project. The Joint Proposal caps Con Edison's share of the expenditures for CSS at $421 million.[59] While the CSS project is not forecast to be completed during the term of the three-year rate plan, the adjustment mechanism protects customer interests should the CSS project close earlier than anticipated.

Energy Efficiency

The Joint Proposal reflects two new Energy Efficiency reconciliations. One measure applies to the Company's new Low-

---

57 The CSS is a shared project between Con Edison and O&R.

58 Case 15-E-0050, et al., Con Edison – Rates, Order Approving Advanced Metering Infrastructure Business Plan Subject to Conditions (issued March 17, 2016) (AMI Order), p. 49.

59 The cap listed here applies only to Con Edison's share.

Moderate Income (LMI) Energy Efficiency program and the other to Con Edison's non-LMI Energy Efficiency program. The Joint Proposal's non-LMI reconciliation measure allows the Company to reallocate any remaining funds across electric and gas where the service specific lifetime goals of the Energy Efficiency program for that service have been met. This flexibility strikes a compromise from the Company's filed request to treat its Energy Efficiency spending as a single program that was commodity neutral. The reconciliation targets for both programs are based on the funding amounts in the Company's filings in the Commission's Energy Efficiency proceedings, Cases 15-M-0252 and 18-M-0084.

Sales and Use Tax Refunds

The Joint Proposal includes a credit to customers of estimated sales and use tax refunds related to the New York State Department of Taxation and Finance's 2015 through 2018 audit period of approximately $19 million. This amount has been made subject to full reconciliation in the event the Company does not receive the refund as anticipated or of the actual refunds exceed that estimate. In addition, the Joint Proposal includes a credit from additional refunds received for the 2012-2015 audit period notwithstanding the fact that the Commission's approved rate plans for Con Edison did not include any provision requiring a credit for those refunds. Con Edison indicates that it agreed to the 2012-2015 period credit as a concession to reach a settled resolution in these cases.

Major Storm Cost Reserve and Pre-Staging

The Joint Proposal provides that Con Edison may use any residual major storm deferral balance on the Company's books of account as of December 31, 2019 during the electric rate plan against major storm costs. The Joint Proposal's annual electric revenue requirements provide funding for the major storm reserve of an annual amount of $22.5 million in RY1, $23.0 million in RY2 and $23.5 million in RY3. All incremental major storm costs incurred by Con Edison are to be charged to the major storm reserve with some limited exceptions. The storm reserve balances are subject to a full two-way reconciliation.

The Joint Proposal allows the Company to charge Pre-Staging and Mobilization Costs between $500,000 and $2.5 million per storm event to the electric major storm reserve if incurred in preparation for a major storm that does not ultimately materialize. For Pre-Staging and Mobilization Costs in excess of $2.5 million, per event, the Company will be allowed to charge 85 percent of such costs to the major storm reserve, expensing the remaining 15 percent in the year incurred. Although this provision is similar to one allowed to the Company in its 2016 electric rate plan, that previous rate plan allowed the Company to charge 100 percent of such costs subject to a $3 million cap per year. Con Edison states that replacing the $3 million cap by instituting a shared percentage of costs allows it to respond to the State's increased emphasis that the Company should mobilize early if a major storm is anticipated.

Other Continuing Reconciliations

The Joint Proposal contains several other reconciliation provisions that the parties have agreed to continue from the Commission's 2017 Rate Order. These items include reconciliations of expense for non-officer management variable pay, adjustments for competitive service, East River maintenance costs and interdepartmental rent, other transmission revenues, Nuclear Electric Insurance Limited (NEIL) dividends, brownfield tax credits, proceeds from the sales of SO2 allowances, the Brooklyn Queens Demand Management (BQDM) program and REV Demonstration Project costs, variable rate debt costs, the congestion tolling program, and New York Facilities

Agreement costs and revenues. Actual costs for the foregoing will be reconciled to the levels reflected in the recommended revenue requirements as recorded in Appendices 8 and 9 of the Joint Proposal.

Discussion

Reconciliations, when used appropriately, can address uncertainties that committing to a long-term rate plan can create. Therefore, their inclusion in Joint Proposals can facilitate agreement where the uncertainty or unpredictably of certain uncontrollable cost elements might give negotiating parties concern, thus preventing agreement. The reconciliation mechanisms discussed here are logical and balanced, as might be expected in an agreement such as this made by parties with diverse interests. As such, they support both the continued provision of adequate service to Con Edison's customers and reasonably balance the identified risks of the rate plan term between customers and shareholders. The Joint Proposal's partial reconciliation provisions provide Con Edison with an incentive to minimize actual expenses and, as such, are appropriate.

Additional Accounting Provisions

Depreciation

The Joint Proposal sets Con Edison's depreciation rates for its electric, gas and common plant accounts based on Staff's Depreciation Panel testimony. Appendix 11 of the Joint Proposal includes the average service lives, survivor curves, and net salvage factors used for calculating the depreciation rates for the three-year rate plans. The Joint Proposal also includes a commitment by the Company to file a study within 60 days after issuance of this Order that evaluates the potential impact of climate change policies and laws on average service lives, reserve deficiency or surplus, salvage value, cost of removal, depreciation rates and customer bills, and an assessment of the appropriate survivor curves for possible use in the Company's next major rate filings.

The Joint Proposal also includes an amount for the theoretical reserve, an accumulated amount of depreciation expense that should have been collected for a specific plant account as of a given date. The amount of the theoretical reserve depends on the average service lives and net salvage factors used to determine the account's depreciation rate, as well as the survivor curve. The theoretical reserve can be compared to the book reserve to show any surplus or deficiency present in each account. Where the accumulated imbalance makes up 10 percent of the theoretical reserve, some portion of the deficiency or surplus is typically made subject to an amortization. In testimony, both Con Edison and Staff found an electric and gas depreciation reserve deficiency that they stated should be amortized.[60] The Joint Proposal provides for a 20-year amortization of the deficiency above the 10 percent tolerance band. This treatment accelerates the Company's recovery of the deficiency from its last rate plan.

<u>Property Tax Refunds and Credits</u>

The Joint Proposal continues a provision in previous Con Edison rate plans that sets an allocation factor for proceeds from any Company-earned property tax refunds. Under the Joint Proposal, the net proceeds of any property tax refunds, including credits against tax payments, received by the Company as a result of its efforts will be shared 86 percent to customers with the Company retaining 14 percent. Notwithstanding the Joint proposal's default allocation, Con

[60] Hearing Exhibit 402, Direct Testimony of Staff Depreciation Panel, p. 24.

Edison is not precluded from requesting a greater share of lower than projected property tax expense where it is successful in obtaining fundamental taxation changes such as the reclassification of its property in New York City that produce substantial net benefits.

Prospective Sales and Use Tax Credits

In its filing, Con Edison, employing a normalization adjustment, removed a Sales and Use Tax refund recorded during the historic test year as a non-recurring refund. Staff expressed its concern that the Company had not notified the Commission of the refund contrary to the requirements of 16 NYCRR §89.3. The Company disputed Staff's position that it had such an obligation on the grounds that the refunds were ordinary operating refunds not subject to refund notice requirements. The Joint Proposal includes a provision clarifying that Sales and Use Tax refunds or assessments that are allocated to electric or gas and not already reflected in the Company's revenue requirement must be deferred for future disposition or collection.[61] Additionally, the Joint Proposal provides that the refund received in the Company's historic test year will be offset against electric and gas plant in service and amortized over 24 years. Finally, the Joint Proposal also clarifies which refunds are subject to the notice requirements of 16 NYCRR §89.3.

Discussion

These additional accounting provisions are reasonable and in the public interest. The allowance in the Joint Proposal

[61] The Company's electric and gas revenue requirements reflect estimated sales and use tax refunds related to the June 1, 2015 through May 31, 2018 audit period of $19.2 million ($17.3 million to electric and $1.9 million to gas). Joint Proposal, p. 45.

for Con Edison's recovery against both the electric and gas reserve deficiencies is in the interest of customers as it avoids the continuation and further growth of reserve deficiencies that will adversely impact customer rates in the future. The agreement on setting an allocation for property tax refunds serves to conserve resources for Staff, the Company and the parties. Finally, the provision on prospective tax refunds and assessments provides clarity and resolves a contested issue regarding the interpretation of Commission regulations that is appropriate.

Revenue Allocation and Rate Design

Electric Revenue Allocation and Rate Design

As part of its initial filing, Con Edison filed an Embedded Cost of Service (ECOS) study designed to ascribe utility cost responsibility to each service class. The Company's electric ECOS Study analyzes the Company's 2017 costs and revenues, at current rates, associated with specific categories of the Company's electric delivery system such as transmission, distribution, customer-related, or competitive-related costs or functions. Con Edison states that its ECOS was performed using the same general methodology underlying the revenue allocation used in its 2016 rate plans. Con Edison's 2017 ECOS study showed that, except for one class, all individual service classes had either a surplus or deficiency.[62]

---

[62] In the Company's methodology, class revenue responsibilities are measured with respect to a 10 percent tolerance band around the total system rate of return. Classes are not considered to be in surplus or deficiency if the class ECOS rate of return falls within this tolerance band. Surplus classes in the Company's ECOS study are SC 8, and SC 9 time of day (TOD). Deficient classes are SC 1, SC 2, SC 5, SC 6, SC 12 TOD, and NYPA. SC 8 TOD, SC 9, and SC 12 are average classes (i.e., neither surplus nor deficient). Joint Proposal, Appendix 20, p. 1.

Con Edison proposed to allocate one-third of the class-specific revenues to address the ECOS deficiencies and surpluses in each Rate Year. The Company then allocated the delivery revenue increase among customer classes in proportion to the relative contribution made by each class to the realigned total Rate Year delivery revenues.

Staff agreed with the Company's allocation methodology as consistent with, and supported by, the National Association of Regulatory Utility Commissioners (NARUC) Cost Allocation Manual. Staff also supported the Company's ECOS study results and proposal to apply one-third of the class-specific 2017 ECOS Study deficiencies or surpluses to the applicable service classes to mitigate bill impacts.

The Joint Proposal uses a four-step process to allocate the rate increases among the service classes. First, the Joint Proposal allocates one-third of the deficiency or surplus in each rate year as determined by Con Edison's ECOS Study. Next, the Transmission and Delivery revenue change is adjusted for changes to the MAC revenue requirement; purchased power working capital; incremental costs associated with the transfer of energy efficiency cost recovery to base delivery rates; and, incremental costs associated with the Low Income Programs including the Reconnection Fee Waiver Program. The resulting Transmission and Delivery related delivery revenue increase is allocated as a uniform percentage increase to Con Edison and NYPA classes in proportion to their respective re-aligned bundled Transmission and Delivery revenues accounting for the ECOS revenue adjustments to address surpluses and deficiencies. Third, the Joint Proposal allocates the MAC decrease, changes to Purchased Power Working Capital, the Energy Efficiency Credit to RNY Customers, and changes to the Low Income Discount Program including the reconnection fee waiver to those classes that are affected by those changes. Finally, the Joint Proposal assigns the total class revenue changes.[63]

Customer Charge

Con Edison, citing to its ECOS study, proposed increases to the customer charges for increase its Service Classes (SC) SC 1, SC 2 and SC 6.[64] While Staff agreed with the Company's proposal,[65] AGREE, Pace, and PULP opposed the Company's proposal arguing that raising the residential customer charge was contrary to promoting energy efficiency and conservation and would disproportionately harm low income customers.[66]

The Joint Proposal adopts the Company and Staff position increasing the customer charge applicable to electric SC 1, SC 2 and SC 6. The Company's ECOS study demonstrates that the current customer charges for the service classes being increased is below the customer-related cost of service. Even with the Joint Proposal's increased customer charges, the customer-related costs remain below those costs as reflected in the Company's ECOS study. To mitigate any bill impacts to residential customers that might result from the customer charge increase, the Joint Proposal increases occur in steps over the three-year term.[67] Notably, Con Edison's customer charge is among the lowest for investor-owned electric utilities in New York, and it will remain among the lowest even after the increases have been implemented.

---

63 Joint Proposal, Appendix 20, pp. 1-3.

64 Hearing Exhibit 184, Electric Rate Panel Testimony, p. 23.

65 Hearing Exhibit 408, Staff Electric Rates Panel Testimony, p. 20.

66 Hearing Exhibit 685, Direct Testimony of Jessica Azulay, pp. 8-10; Hearing Exhibit 606, Direct Testimony of Karl R. Rábago, pp. 4-5; Hearing Exhibit 520, Testimony of William D. Yates, CPA, p. 12.

67 Joint Proposal, p. 59.

The Joint Proposal also includes an increase to Con Edison's Billing and Payment Processing charge. In its direct testimony, Staff had recommended that the Commission increase the Billing and Payment Processing charge to update the charge based on inflation between 2017 to 2020, using the Commission-approved Gross Domestic Product (GDP) inflator.

Optional Demand-Based Rate

The Joint Proposal creates an Optional Demand-Based Rate to be made available geothermal heat-pump residential customers that already have pumps installed or that qualify to receive them through a Con Edison promoted heat pump program to begin in 2020. The rate will also be made available to up to 5,000 other residential customers that do not qualify for the Company's 2020 geothermal residential heat pump program. The optional rate will include a $27.00 customer charge to recover the full customer cost reflected in the Company's ECOS study. By providing a demand-based rate for ground-source heat pump customers that includes a fully-allocated customer charge, the Optional Demand-Based Rate eliminates any need to provide a rate impact credit because the customer will be billed consistent with their cost-causation. The cap on participation by non-ground sourced heat pump customers serves to minimize the potential bill impacts for non-participating customers.

The new rate is included in the Joint Proposal to address concerns raised in some parties' testimony that Con Edison's volumetric delivery rates include recovery of fixed system costs that geothermal customers do not cause to be incurred, and so create a subsidy for other rate payers. The Optional Demand-Based Rate eliminates the impact of recovering fixed system costs through volumetric delivery rates to geothermal and other similarly situated customers. The Proposal also includes annual reporting on the Optional Demand-Based

Rate, which will include information on bill impacts, and will delineate between participants using geothermal technologies and participants without such technologies.

Miscellaneous Rate Provisions

The Joint Proposal eliminates the Company's collection of independent competitive metering charges shifting recovery of metering costs to base rates.

The Joint Proposal sets the threshold for adjusting high tension/low tension differentials in Rate I and Rate II of SC 5, SC 8, SC 9, and SC 12, and the NYPA Rate I and Rate II classes at a 5-percentage point difference between high tension/low tension cost ratios and high tension/low tension rate ratios. The Company had proposed a 10-percentage point differential, Staff proposed 5-percentage points, and the MTA proposed eliminating the differential.[68]

Gas Revenue Allocation and Rate Design

The Joint Proposal also uses the Company's 2017 ECOS Study as the basis for its gas revenue allocation. As with the electric revenue allocation, the Joint Proposal applies one third of the gas revenue deficiency and surplus indications in a revenue neutral manner across each of the three rate years. This allocation brings each service class closer to bearing the costs for which they are responsible as shown in Con Edison's 2017 ECOS study.

Gas Minimum Monthly Charges

The Joint Proposal includes an increase of the minimum charge for SC 1 from the current $23.70 to $24.00 in RY1. The Joint Proposal also provides for increases to the minimum monthly charges for the SC 2 Rate I, SC 2 Rate II, SC 3 and

[68] Id.

SC 13.[69] Increasing the minimum charge for all SCs is reasonable based on the results of the 2017 ECOS study.

The increase to the monthly charge for SC 1 was made to mitigate the bill impacts from the larger rate increases in gas versus electric as measured on a percentage basis. Placing the entire rate increase in the volumetric charge would create significant bill impacts, particularly for higher usage customers, because most residential customers use less than 5 therms per month. In addition, higher volumetric charges would be felt most sharply by those using natural gas for heating, as their usage is highest in cold weather months, and many such customers are low- and moderate-income ratepayers.

Gas Interruptible Service Rates

The Joint Proposal discontinues interruption of service by means of a temperature control device, Con Edison's legacy Temperature Controlled interruptible customer classification. This change makes all interruptible customers subject to interruption by notice. The Joint Proposal also sets interruptible rates at 70 percent of firm service rates. This reduction in the rate cap, which was 100 percent of firm customer rates, is designed to make interruptible service more attractive to some customers and is consistent with interruptible gas service provided by other New York load distribution utilities that offer a discount to interruptible customers from firm service rates. Further, interruptible service is an important form of demand response and helps to bridge the supply to demand gap for the Company's natural gas system.

[69] Joint Proposal, pp. 68-69.

Gas Balancing

The Joint Proposal implements revised daily and monthly balancing requirements, operational changes and cashout requirements for Con Edison’s interruptible and off-peak firm customers. The Company’s daily balancing service will be reduced to 5 percent in line with the tariffs of other New York gas utilities. The effect will be to free up storage capacity to alleviate some of the Company’s capacity constraints. The monthly balancing changes also result in a reduction in the frequency of meter reads on monthly balanced customers. Con Edison’s existing program requires daily reads even for monthly balanced customers. The modified cashout requirements bring the payments closer to the actual costs of performing the commodity exchange. Additionally, the gas balancing modifications will allow the Company to better manage daily imbalance swings and collect the appropriate costs for the use of balancing assets from subscribing customers on behalf of firm customers.

Discussion

Both the Company and Staff have provided substantial testimony regarding Con Edison’s ECOS studies and the proposed revenue allocation and rate design. The Joint Proposal’s revenue requirements are allocated fairly among the rate classes consistent with cost of service principles. As with the revenue requirements, the revenue allocation and rate design were agreed to by many parties. Parties that opposed the Joint Proposal did not generally raise issues about its assignment of revenues to the different rate classes. Moreover, no party opposing the Joint Proposal demonstrated that the Joint Proposal’s revenue allocation and rate design terms are unreasonable. Thus, we determine that the allocation and rates assigned to the service classes in the Joint Proposal are just and reasonable.

Performance Mechanisms: Electric and Gas, Reliability and Safety

The Joint Proposal recommends establishing performance metrics to measure activities in the areas of electric reliability, electric safety standards, and gas safety.[70] For electric reliability, if the Company fails to meet the established metrics, it will incur negative revenue adjustments. For gas safety, the Joint Proposal provides that if the Company meets or exceeds the established metrics in some of these areas, it will earn positive revenue adjustments; and if the Company fails to meet the metrics, it will incur negative revenue adjustments. These positive and negative adjustments will be recovered from or credited to customers. Any adjustments during the rate plans will be made through the electric Monthly Adjustment Charge (MAC), the NYPA Statement of Other Charges and Adjustments, the gas Monthly Rate Adjustment charge (MRA), or will be deferred for the benefit of ratepayers.

With one exception related to gas pipeline replacement, the Joint Proposal provides that all electric reliability and gas safety performance targets will continue after the term of this rate plan until changed by the Commission.[71]

Electric Reliability Performance Mechanism

The Joint Proposal continues many of the existing provisions from Con Edison's same electric reliability performance mechanism (RPM) that was adopted by the Commission in the 2017 Rate Order.[72] The Joint Proposal's RPM includes nine

---

[70] Joint Proposal, p. 75; Appendices 14, 15, and 17.

[71] Joint Proposal, Appendix 14, p. 1; Appendix 17, p. 1, n. 2. The 270-mile leak-prone gas main replacement target does not remain in effect beyond 2022, but the requirement to remove 90 miles of pipeline per year does.

[72] Joint Proposal, Appendix 13.

performance metrics related to: threshold standards, consisting of system-wide performance targets; a major outage metric; a remote monitoring system metric; a program standard for repairs to damaged poles; a program standard for the removal of temporary shunts; a program standard for the repair of "no current" street lights, and traffic signals; a program standard for over-duty circuit breakers; a program standard for Level II deficiency repairs; and a program standard for the Non-Network Reliability program in Westchester County. Under the Joint Proposal's RPM, Con Edison is subject to a maximum revenue adjustment of \$197.5 million in each of RY 1 and RY 2, and \$200.5 million in RY 3.

The Joint Proposal's RPM incorporates changes from the existing RPM Con Edison has operated under during the term of its last rate plan. The existing Network Outages per 1000 customers served metric is replaced by a System Average Interruption Frequency Duration (SAIFI) metric; the Network Outage Duration metric is replaced by a Customer Average Interruption Duration Index (CAIDI) metric; the metric for Summer Open Automatics is eliminated and the associated revenue adjustment is now applied to the Network SAIFI metric; the threshold requirements for the Remote Monitoring System (RMS) metric are modified to provide the Company flexibility in performing maintenance work; the requirements and applicability of the Major Outage metric have been changed and the associated negative revenue adjustments have been increased. Additionally, the Joint Proposal includes two newly implemented metrics: a Level II Deficiency Repair metric associated with the Company's facility inspection and repair program, and, a Non-Network Reliability metric for capital work performed in Westchester County during the term of the Proposal under the Company's Non-Network reliability program. Con Edison's failure to meet its

SAIFI and CAIDI metrics can result in a maximum annual exposure of $110.0 million of the Company’s total combined exposure in each of the Joint Proposal’s rate years.

The changes made to apply SAIFI and CAIDI metrics rather than continuing the existing RPM metrics appeared in Con Edison’s testimony and was supported by Staff. The change was made possible by the accumulation of adequate outage data collected from its outage management system that was put into service in 2008. The RPM was modified at that time in Case 08-E-0539 to remove SAIFI and CAIDI because of concerns about the sufficiency and reliability of information from the newly implemented outage system. Returning Con Edison to a SAIFI and CAIDI metric aligns its performance mechanism program with that of New York’s other electric distribution utilities.

The Joint Proposal also changes the definition and annual revenue adjustment exposure of Con Edison’s Major Outage metric. These changes were made to address concerns about outage events that occurred in July 2019. Under the Company’s existing RPM, a network major outage occurs when there is an interruption of service to 15 percent or more of the customers in a network for a period of three hours or more. A single event that impacts multiple network systems currently can result in only one revenue adjustment being assessed. To hold the Company more accountable for major outages that affect large numbers of customers, the Joint Proposal redefines a network major outage event as each area substation with a network that has electric outages to 15 percent or more of the network customers for a period of three hours or more. The definition also states that outages to double-area substations with a total peak load less than 500 MW are considered a single event for purposes of determining the revenue adjustment.[73] Additionally, Con Edison's currently effective RPM defines a radial major outage as an outage event that results in the sustained interruption of service to 70,000 customers for three hours or more. The Joint Proposal adopts a definition for radial major outages that includes one event that results in the sustained interruption of service to at least 12,500 radial customers for 180,000 or more customer hours.[74]

For the RMS metric, Con Edison proposed to change the metric to a 90 percent reporting rate for the RMS in a minimum of 62 of its 65 networks on the last month of the second quarter because of upgrades the Company is making in its network monitoring equipment. Staff raised concerns about Con Edison's proposal because of the importance of the RMS data that is sent to Con Edison's system operators to inform them of the status of its underground distribution network system. The Joint Proposal's RMS metric addresses the concerns raised by both parties by lowering the reporting requirements only during the non-summer peak period. For the first, third and fourth quarters in a calendar year, the reporting rate for RMS, under the Joint Proposal, is decreased from a 90 percent to an 85 percent reporting rate to facilitate Con Edison's upgrade of its remote monitoring system equipment.

Electric Safety Standards

Con Edison initiated an eight-year underground inspection cycle on January 1, 2015.[75] At the start of these rate plans, the Company is five years into its inspection cycle and is required to have inspected at least 95 percent of its

---

[73] Joint Proposal, Appendix 14, p. 9.

[74] Id.

[75] See 2017 Rate Order, pp. 67-68.

annual target, and a minimum 57.5 percent of the entire underground electric system. The Joint Proposal authorizes the Company to continue its inspection cycle program for underground equipment, as authorized by the Commission under the 2016 Electric Rate Plan.[76]

Gas Safety Performance Mechanisms

As with the electric reliability performance mechanism, the Joint Proposal in large part continues but enhances the Company's existing gas pipeline safety activities.[77] These activities involve leak detection and management, emergency response, damage prevention, gas main replacement, and any events of regulatory non-compliance. The annual positive revenue adjustments for surpassing various pipeline metrics is 20 pre-tax basis points.[78] The potential annual cumulative negative revenue adjustment for the Company's failure to meet minimum targets is a maximum of 150 pre-tax basis points.[79]

Leak Management

The Joint Proposal includes a performance mechanism requiring the Company to repair 85 percent of the leaks on its system within 60 days. In addition, any leak that is not repaired within one year is to be reported in its annual filing to the Commission's Secretary. If the Company fails to repair 85 percent of leaks within 60 days or fails to file the annual report, the maximum positive revenue adjustments Con Edison is otherwise allowed to earn is reduced by one basis point.

The Joint Proposal establishes annual targets of a maximum of 300 for total leak backlog (Types 1, 2, 2A, and 3)

---

[76] Joint Proposal, Appendix 15.

[77] Joint Proposal, Appendix 17.

[78] Joint proposal, Appendix 17, pp. 7-9.

[79] Joint Proposal, Appendix 17, p. 1, n. 1.

for RY1, 250 total leaks for RY2, and 200 total leaks for RY3. This is an aggressive leak management program in comparison to the current program approved in the 2016 Rate Order that set annual targets of 600, 550, and 500 total leaks for each of its three successive rate years.

The Joint Proposal provides for both positive and negative revenue adjustments for leak management, allowing the Company to earn up to four basis points annually. To earn the maximum positive revenue adjustment, Con Edison must have a total leak backlog of 125 or less in RY1, 75 or less in RY2, and 25 or less in RY3. Moreover, to be eligible for the full positive revenue adjustments, 85 percent of leaks in each Rate Year must be repaired within 60 days.

Emergency Response

The Emergency Response performance mechanism included in the Joint Proposal maintains the current minimum statewide emergency response targets and encourages additional improvements through positive revenue adjustments. The Company must respond to a minimum of 75 percent of emergency reports within 30 minutes, 90 percent within 45 minutes, and 95 percent within 60 minutes.[80] The mechanism includes positive and negative revenue adjustments for achieving or failing to achieve targets.

The positive revenue adjustments range from two to six pre-tax basis points based on the range of the Company's response time to emergencies. The percentage tiers applicable to the Company's ability to earn positive revenue adjustments are response within 30 minutes to gas leak or odor calls for at least 95 percent of the emergency reports for the lowest tier, at least 96 percent for the second tier, and at least 98 percent

[80] Joint Proposal, Appendix 17, pp. 2-3.

for the highest tier, awarding 2, 4 and 6 basis points, respectively.

Damage Prevention

The Joint Proposal provides for a damage prevention performance mechanism designed to protect and prevent damage to natural gas pipes. This mechanism would establish total annual damages for each rate year and new tiers of negative revenue adjustments ranging from 5 to 20 basis points for each calendar year the targets are not attained.[81] The damage prevention categories are set per 1,000 one-call tickets in each rate year.[82] This Joint Proposal's tiered approach includes all damage prevention categories combined in a single measure. The damage prevention mechanism also provides an opportunity for Con Edison to receive a positive revenue adjustment available at two tiers. Under the Joint Proposal, the Company can earn five basis points if it experiences 1.26 to 1.5 damage incidents per 1,000 one-call tickets, and ten basis points if it experiences 1.25 incidents or less per 1,000 one-call tickets.

Gas Main Replacement

The Joint Proposal maintains Con Edison's requirement that it remove a minimum of 85 miles of leak-prone pipes from service in 2020 and 2021, with a cumulative total of 270 miles removed by December 31, 2022.[83] This performance mechanism sets the negative revenue adjustment at 15 basis point for failure to meet each of the individual 2020 and 2021 targets and also for a failure to meet the cumulative 2022 target.

---

81 Joint Proposal, Appendix 17, pp. 3-4.

82 Joint Proposal, Appendix 17, p. 4. This mechanism also allows for seasonal and video locating contractors and an excavator education program to assure damage prevention.

83 Joint Proposal, Appendix 17, p. 4.

Regulatory Non-Compliance and Violations

Under the terms of the Joint Proposal, the existing negative revenue adjustment for regulatory violations identified by Staff during field and records audits would be modified.[84] Only violations identified in Staff field and record audit letters will be counted in this metric. The Joint Proposal defines "high risk" or "other risk" categories of violations, establishes thresholds, and sets negative revenue adjustments for exceeding the established thresholds.[85]

The Joint Proposal also identifies procedures for the Company to cure violations (within ten calendar days of a compliance meeting with Staff). It limits the Company's exposure resulting from multiple violations of a single regulation and limits any negative revenue adjustment assessed to no more than 75 basis points.[86] The Joint Proposal provides for Staff to submit a final non-compliance audit report to the Secretary and recommends procedures for the Company to dispute and appeal any Staff findings in the report.[87]

Discussion

The Joint Proposal's electric and gas performance mechanisms are designed to provide financial incentives to motivate the Company to continue to provide safe and adequate service to its customers. These are well-recognized incentives that have been employed by the Commission in other rate cases. The performance mechanisms outlined in the Joint Proposal benefit customers and are in the public interest because they are designed to improve electric and gas reliability and safety.

---

84 Joint Proposal, Appendix 17, pp. 5-7.

85 Joint Proposal, Appendix 17, pp. 5-7 and Table 2.

86 Joint Proposal, Appendix 17, p. 6.

87 Joint Proposal, Appendix 17, p. 7.

With respect to the Joint Proposal's electric reliability performance mechanism, the modification to institute CAIDI and SAIFI targets brings Con Edison in alignment with the metrics applicable to other New York electric distribution utilities. This alignment creates efficiencies for the parties and for Staff. We therefore find this performance mechanism to be in the public interest.

With respect to the gas safety performance mechanism and its several components, we find that the Joint Proposal can work to improve the Company's performance in this area and enhance public safety and compliance with the Commission's gas safety regulations. The metrics established are reasonable.

The repairable leak and leak backlog metrics encourage the Company to exceed the established targets with the assistance of consultants devoted to those tasks. Both the Company and the public will benefit from the knowledge and expertise of the consultants tasked with meeting the metrics. The revenue adjustment incentives accelerate the Company's progress every year. In addition, the metrics put the Company on track to complete total removal in less than 20 years.

Besides improving system safety, these metrics can result in lower methane emissions from leaking and leak-prone pipes and providing an important environmental benefit. The Joint Proposal properly addresses the necessity of improving gas safety and realizing environmental benefits.

The Joint Proposal's emergency response metrics are designed to decrease the time for the Company's qualified responders to answer emergency calls and investigate and resolve problems. This benefits the public as the design of the metric helps assure the public that urgent issues are addressed quickly.

The Joint Proposal's tiered damages prevention metric is similarly beneficial to the public because it requires the Company to achieve high overall levels of prevention.

Finally, the metrics to reduce regulatory violations strikes the correct balance between achieving compliance and limiting the Company's exposure for multiple violations of the same regulation. This metric does not change the Company's obligations because more than ten violations of any given regulation not captured in this metric may still be subject to the development of a corrective action order or a penalty action under PSL §§ 25 and 25-a.

In sum, the gas and electric performance mechanisms support the Commission's existing electric reliability and gas safety policies to assure continued safe and reliable operation of the Company's electric and gas systems and are in the public interest.

Performance Metrics: Customer Service

The Joint Proposal provides for customer service performance metrics designed to measure and enhance the Company's activities and interactions it has with its customers.[88] It continues previous metrics but, consistent with Staff recommendations, modifies the metric thresholds some of which are phased in over the three-year rate plan.[89]

This performance mechanism sets targets and implements maximum negative revenue adjustments of up to $40 million annually and remains in effect for the term of the rate plan and thereafter unless changed by the Commission.[90] All revenue

---

88 Joint Proposal, Appendix 18.

89 Joint Proposal, Appendix 15, pp. 1-3.

90 Joint Proposal, Appendix 18, p. 1.

adjustments related to the Customer Service Performance Mechanism will be deferred for the benefit of customers.[91]

For customer complaints made to the Commission, the Joint Proposal establishes three tiers with a maximum negative revenue adjustment of $9.0 million for a 12-month average complaint rate per 100,000 customers exceeding 2.4. For customer satisfaction surveys, the Joint Proposal establishes a maximum negative revenue adjustment of $18 million dollars divided equally ($6.0 million each) among three categories, Emergency Calls applicable to only electric, phone center calls that are non-emergency in nature, and service center visits. Con Edison is subject to a maximum negative revenue adjustment of $5.0 million for a failure to answer customer calls in a timely fashion. Performance is measured on a five-tier scale that becomes more stringent during each successive year of the Joint Proposal's rate plans.

Con Edison is required to make certain communications with customers pursuant to the Commission's Order in Case 00-M-0095.[92] Where Con Edison fails to meet the applicable threshold performance as included in the Commission's Outage Notification Order, it incurs a revenue adjustment at twice the level set forth in that Order. Con Edison remains at risk for Outage Notification violations for a maximum of $8.0 million, a total established in Case 07-E-0523.

Lastly, Con Edison is held responsible for customer satisfaction related to gas emergency calls. Satisfaction levels are determined by surveys performed semi-annually by an

---

91 Id.

92 Case 00-M-0095, Consolidated Edison, Inc. and Northeast Utilities – Petition for Merger, Order Approving Outage Notification Incentive Mechanism (issued April 23, 2002) (Outage Notification Order).

outside vendor selected by the Company. The surveys, which are already being used in the Company's current gas rate plan, measure customers' satisfaction with the handling of calls to the Gas Emergency Response Center relating to gas service. Under the metric, where the average of the two system-wide satisfaction survey indices for any rate year fall below 89.0 percent, Con Edison will provide a credit to customers, as directed by the Commission. The gross amount of the credit is to be calculated proportionately from zero at a satisfaction level of 89.0 percent or above, up to a maximum of $3.3 million at a satisfaction level of 88.4 percent or below. System-wide emergencies are excluded from the threshold.

Discussion

The Joint Proposal's customer service performance mechanisms provide sound incentives for the Company to improve its customer service. It provides reasonable earnings consequences based on the quality of services provided to customers in specific areas. The components of the customer service mechanism will encourage the Company to further improve the customer service experience. We find the Joint Proposal's provisions here sufficient and in the public interest.

Customer Energy Solutions

Energy Efficiency Programs

In March 2018, the Commission directed New York's utilities to move their energy efficiency program costs into base rates.[93] In its proposal to implement the Commission's directive, Con Edison sought to recover its energy efficiency costs as a regulatory asset amortized over 10 years. Staff

[93] Case 15-M-0252, Utility Energy Efficiency Programs, Order Authorizing Utility-Administered Energy Efficiency Portfolio Budgets and Targets for 2019-2020 (issued March 15, 2018), p. 23 (March 2018 Energy Efficiency Targets Order).

supported the Company's request and it is incorporated in the Joint Proposal.[94] The Joint Proposal requires Con Edison to use its historic unspent electric energy efficiency funds to fully offset its RY1 electric energy efficiency costs and partially offset the RY2 costs.[95]

Consistent with the Commission's March 2018 Energy Efficiency Targets Order, the Joint Proposal includes a downward only reconciliation at the end of RY3. Should the Company not file for new rates, funding remains at the RY3 level subject to annual downward-only reconciliations.[96] For funding, the Joint Proposal adopts the Company's energy efficiency budgets and targets included in in its May 21, 2019, Updated Utilities Report[97] as a placeholder pending final Commission action on the Companies filing. The Joint Proposal acknowledges that any action the Commission takes to modify the budgets and targets in Case 18-M-0084 will be incorporated into the rate plan and makes provisions for reconciliation of the budgets to such action.[98]

For the Joint Proposal's Low to Moderate Income energy efficiency programs, the Company has full flexibility to reprogram funds across its electric and gas businesses. For the non-Low to Moderate Income energy efficiency programs, the Company is provided flexibility to apply funds across businesses once the lifetime target is met.[99] To broaden the reach of Con

---

[94] Joint Proposal, p. 44.

[95] Id.

[96] Id.

[97] Case 18-M-0084, Comprehensive Energy Efficiency Initiative, Updated NY Utilities Report Regarding Energy Efficiency Budgets and Targets, Collaboration, Heat Pump Technology and Low- and Moderate-Income Customers and Requests for Approval (filed May 21, 2019) (May 21 Updated NY Utilities Report).

[98] Joint Proposal, pp. 44-45, 75.

[99] Joint Proposal, pp. 44-45.

Edison's energy efficiency portfolio and further the State's policy goals, the Joint Proposal expands the Company's gas energy efficiency programs to the Company's interruptible customers.[100]

Con Edison commits to implement a portfolio of energy efficiency programs including coordinating with NYSERDA to target two- to four-family homes, developing outreach and informational materials, and encouraging Low to Moderate Income customers to enroll in Con Edison and the New York State Energy Research and Development Authority (NYSERDA) energy efficiency programs. In addition, the Company commits to assist qualifying Low to Moderate Income customers to obtain financing for energy efficiency projects by providing funding for a study to determine suitable Energy Efficiency projects and providing the customer with a commitment letter to aid that customer in obtaining project financing. To address evolving policies on considering alternatives to natural gas heating, the Joint Proposal implements a Heat Pump Demand Pilot administered by Con Edison available to interested heat pump customers on demand rates to allow them to adjust heat pump operation to respond to near real-time usage information for better home demand management. Finally, Con Edison will host one annual stakeholder forum to collect feedback on its energy efficiency programs.

Earnings Adjustment Mechanisms (EAMs)

The Joint Proposal contains EAM metrics applicable to both electric and gas businesses, as well as programs that cross-commodity businesses. Two types of EAMs are provided, those that are program-based and those that are outcome-based. The Joint Proposal's EAMs are designed to encourage energy

---

[100] Joint Proposal, p. 76.

efficiency, peak demand reduction, and beneficial electrification. For electric, if Con Edison achieves maximum performance in each electric-only EAM category, it would earn an additional 33 basis points. For the one gas-only EAM category, the Company will receive an additional 8 basis points for maximum performance. In addition to the foregoing, Con Edison can also receive earnings for performance related to its two cross-commodity EAM's.

The two cross-commodity program-based EAMs are referred to as "Share the Savings" and "Deeper Energy Efficiency Lifetime Savings." Share the Savings is designed to encourage the Company to reduce the unit cost of the energy efficiency measures offered to customers and the Deeper EE Lifetime Savings is designed to encourage the Company to undertake longer lead-time, longer lasting, deeper energy efficiency and beneficial electrification programs, such as building envelope measures and heat pumps in an effort to help meet the State's clean energy goals.[101]

The other five EAMs are outcome-based. Beneficial Electrification is aimed at reducing greenhouse gas emissions through deployment of electric vehicles and heat pumps. Distributed Energy Resource Utilization provides incentives to achieve adoption rates for Solar Photovoltaic, Storage, and Wind projects in Con Edison's service territory. Electric System Peak pertains to reducing the New York Control Area coincident electric peak below a forecasted level. Locational System

[101] The additional earnings available to the Company through Share the Savings are based on a formula that accounts for a percentage of lifetime savings achieved. The Deeper Energy Efficiency EAM provides for maximum earnings of 11 additional basis points in RY1, 12 basis points in RY2, and 13 basis points in RY3, but also allows the Company to carry over unearned basis points from the previous RY.

Relief Value Load Factor focuses on maintaining or improving the load factor in Locational System Relief Value areas. Gas System Peak incents the Company to reduce gas peak on a peak day per heating degree day basis.

Con Edison proposals for EAMs appeared both in testimony and its May 21 Updated NY Utilities Report. In testimony, the Company proposed to eliminate the electric Energy Intensity metrics, continue the existing AMI Customer Awareness EAM metric without modification, and eliminate the Interconnection EAM metric from their existing rate plans.[102] In its filings in Case 18-M-0084, the Company proposed six EAMs, including three cross-commodity, fuel-neutral metrics, and three electric-only metrics, as well as three cross-commodity EAMs. Con Edison's proposal included maximum earnings of 85 basis points per calendar year from electric-only EAMs and the electric allocation of cross-commodity EAMs, and a maximum of 60 basis points per calendar year for the natural gas allocation of cross-commodity EAMs.

Staff recommended a reduction in the maximum basis points earnings, more stringent EAM performance targets, the addition of an outcome-based Electric Peak Reduction EAM and an outcome-based Gas Peak Reduction EAM, expressing the assigned basis point values for EAMs in dollars, and that any EAM metrics, targets, and financial incentives be set for three years regardless of the resulting rate plan duration. Staff also urged Con Edison to make greater efforts on outcome-based EAMs to drive customer behavioral changes. Staff observed that Con Edison's proposed metrics were duplicative in certain respects and recommended that programmatic energy efficiency EAMs should be measured using verified gross savings. Lastly,

---

[102] Hearing Exhibit 86, Customer Energy Solutions Direct Testimony, pp. 136-137, 140.

Staff recommended three new EAMs, an Electric Peak Reduction metric, a Gas Peak Reduction metric, and a Network Load Factor metric.[103] Staff also recommended a 100 basis point cap on the maximum earnings allowed to Con Edison through EAMs.

NYC and NYECC supported the inclusion of programmatic EAMs because of their ability to measure the results of Company actions.[104] Other parties argued for higher targets than those originally proposed by the Company[105] and recommended new EAMs.[106]

Electric Vehicles

The Joint Proposal provides for the continuation of Con Edison's SmartCharge New York program but modifies it by separating implementation according to three categories. SC 1 Rate I customers will continue to use the program according to the present non-tariffed structure, and the Company will implement new incentives for SC 1 Rate III customers and for medium- and heavy-duty vehicles, including buses. The Joint Proposal also provides for a downward-only reconciliation for SmartCharge New York program costs. The Joint Proposal also establishes separate Make-Ready Infrastructure programs, a Publicly-Accessible Direct Current Fast Charger (DCFC) and Fleet

---

[103] Hearing Exhibit 367, Direct Testimony of Staff Earnings Adjustment Mechanism Panel, pp. 69-74, 79-88.

[104] Hearing Exhibit 494, NYC Energy Efficiency Panel, Direct Testimony, p. 32; Hearing Exhibit 533, Direct Testimony of David F. Bomke - Electric, Direct Testimony, p. 10.

[105] Hearing Exhibit 675, Direct Testimony of Paul Centolella, p. 31; Hearing Exhibit 464, Direct Testimony of The Westchester Panel, p. 64; Hearing Exhibit 600, Direct Testimony of Catherine Luthin, p. 18; Hearing Exhibit 643, Direct Testimony of Kathleen A. Kelly, pp. 18-19.

[106] Hearing Exhibit 463, Direct Testimony of Tim Woolf and Alice Napoleon, pp. 38-39; Hearing Exhibit 494, NYC Energy Efficiency Panel, Direct Testimony, p. 40; Hearing Exhibit 675, Direct Testimony of Paul Centolella, p. 17.

DCFC. Further, the Joint Proposal’s Make-Ready Infrastructure programs include a requirement for developers to contribute toward the make-ready infrastructure costs, with declining customer contributions beyond RY1.

Con Edison states that the publicly accessible DCFC will assist charging station developers whereas the fleet Make Ready DCFC will assist owners of private and public fleets to invest in electrifying their fleets. The Fleet program only allows for one incentive per fleet during the term of the Joint Proposal unless the Company determines in July 2021 that participation has not met expected levels. After that previously participating fleets can be eligible for additional incentives. The Joint Proposal allows an initial allocation of $10 million for publicly accessible and $3 million for Fleet in RY1 but provides the Company with flexibility to shift funds between the two programs as appropriate.

The electric vehicle programs contained in the Joint Proposal are designed to balance a broad range of party positions and to accelerate the electric vehicle market in the Company’s service territory.

Energy Storage

The Joint Proposal also provides for the implementation of two energy storage projects. Con Edison will implement one energy storage facility in front of the meter energy storage project at the Fox Hills substation. This project will provide system relief and economic benefits through a battery that can discharge an output of 7.5 MW/30 MWh over a four-hour period. Additionally, Con Edison will implement both a battery storage and an electric vehicle charging project at its Nevins Street property. The Company will lease the site to a third party for a battery storage project to support the electric vehicle charging project.

Advanced Metering Infrastructure

The Commission approved Con Edison's AMI Business Plan allowing it to invest up to $1.285 billion in capital expenditures in its 2016 AMI Order.[107] The Joint Proposal's electric and gas revenue requirements reflect the Average AMI Plant in Service Balances (excluding removal costs) for the Company's continuing installation of AMI during RY1, RY2 and RY3.[108]

At the end of RY3, the Company will defer for the benefit of customers or the Company (subject to the cap described in this section), the revenue requirement impact of the amount by which the Company's actual capital expenditures for AMI results in average net plant that is different from the amount included in the Joint Proposal's Average AMI Plant in Service Balances. Con Edison will continue to include as a separately tracked item the capital expenditures made specifically for AMI in its electric and gas annual capital expenditure reports.

Additionally, the Commission's 2016 AMI Order directed the Company to develop metrics for AMI so that the Commission may monitor the success of the AMI project. The applicable metrics focus on AMI's benefits to system operation, outage management, and billing errors.[109]

---

107 Cases 15-E-0050, et al., Con Edison - Rates, Order Approving Advanced Metering Infrastructure Business Plan Subject to Conditions (issued March 17, 2016) (2016 AMI Order).

108 Joint Proposal, Appendix 10.

109 2016 AMI Order, p. 47. Appendix 19 of the Joint Proposal provides the specific reporting requirements for each of these system benefits.

Scorecards

The Joint Proposal provides for scorecards on metrics attached to Energy Intensity and Green House Gas emissions during the terms of the Rate Plan. The Greenhouse Gas emissions scorecard will detail New York City's most current GHG inventory as part of the Company's EAM annual report.

Under the last rate plan, Con Edison was also required to provide an AMI scorecard related to customer awareness. The Joint Proposal eliminates the AMI Customer Awareness EAM metric in favor of implementing semi-annual scorecard reporting. This provision was included in the Joint Proposal based on recommendations made by Staff in its testimony. Also based on a Staff recommendation, the Joint Proposal requires the Company to track third party participation in its Green Button Connect program as a scorecard as part of its AMI-related reporting. The Joint Proposal's inclusion of reporting through scorecards facilitates Commission and stakeholder oversight, allowing all interested parties to observe trends in these developing areas.

Discussion

The Commission has previously declared its intent to create a modern regulatory model that challenges utilities to take actions to achieve the objectives by better aligning utility shareholder financial interest with consumer interests.[110] To accomplish its goal, the Commission identified, among other things, the inclusion of EAMs in utility rate plans to incent utilities to invest capital and seek third-party solutions that improve the efficiency, resiliency and flexibility of the utility's physical networks, reduce consumer total costs and achieve the State's policy objectives. EAMs

[110] See Case 14-M-0101, Reforming the Energy Vision, Order Adopting a Ratemaking and Utility Revenue Model Policy Framework (issued May 19, 2016).

should reflect the unique characteristics of a utility's customers, its service area, and its operational capabilities and constraints to support the Commission's REV objectives and provide for customer benefits.

In addition, the Joint Proposal's other programs, including those directed at the promotion of electric vehicles and development of energy storage, are consistent with Commission policy goals. They are designed to provide environmental benefits and to address concerns raised by numerous parties to these matters.

The Joint Proposal balances shareholder, customer, environmental, and public interests to establish new incentive mechanisms that will align the Company's business activities with the Commission's and New York State's energy and climate policy goals. The Joint Proposal's EAMs will support energy efficiency programs that will integrate new clean energy technologies from emerging markets. The Joint Proposal's EAMs also logically follow the recommendations made by the parties in the pre-filed testimony. The Commission has approved similar mechanisms to those included in the Joint Proposal in approving previous rate plans, and the amounts of the earnings available are commensurate with the levels approved by the Commission in its 2019 O&R Rate Order, 2018 Niagara Mohawk Rate Order, and 2018 Central Hudson Rate Order when compared by basis point level.[111] For the foregoing reasons, we determine that the EAMs and other Customer Energy Solutions proposals are reasonable and in the public interest.

[111] Cases 17-E-0238 and 17-G-0239, Niagara Mohawk - Rates; Cases 17-E-0459 and 17-G-0460, Central Hudson Gas & Electric Corporation – Rates, supra n. 154.

Additional Electric and Gas Provisions

Electric

In the Joint Proposal, Con Edison commits to address vulnerabilities to its systems from climate change and storms. The Joint Proposal provides that the Company will implement Weather Data Sensor and River Temperature Sensor Installation Programs at certain Company facilities by April 30, 2020. These programs are designed to inform the Company about the relationship between local climatic conditions and equipment performance and for better planning for system designs and operations.[112] Con Edison also commits to make its data available, on a confidential basis, to researchers.

The Joint Proposal includes an allowance of up to $1.5 million for Con Edison to complete by December 31, 2020, an ongoing Climate Change Vulnerability Study and to develop a detailed plan to implement the study's recommendations.[113] Con Edison commits to meet with stakeholders during the first quarter of 2020 to get input on the scope of issues the Company should address in creating its plan for implementation of the study recommendations about incorporating climate projections into its operations. The Joint Proposal also commits the Company to conduct additional meetings in RY2 and RY3 to update Staff and stakeholders on the Company's progress on its plan for implementation.

[112] We note that Con Edison, and other utilities, have an obligation to proactively address climate change impacts on their service territories and integrate such considerations into their system planning and construction plans. See Case 13-E-0030, Con Edison – Rates, Order Approving Electric, Gas and Steam Rate Plans in Accord with Joint Proposal (issued February 21, 2014), pp. 71-72.

[113] Joint Proposal, pp. 88-89.

The Joint Proposal also addresses recommendations made by Staff in its investigation of damage and outages that occurred in 2018 when Con Edison's service territory experienced severe storms. Staff's Report on its 2018 Winter and Spring Storms Investigation was issued in April 2019.[114] Among other things, Staff found that there was a trend of decreasing numbers of overhead line workers employed by Con Edison. Recommendation #14 of the Staff 2018 Storm Report suggested that Con Edison hire at least 30 new overhead line workers. The Joint Proposal includes funding, and a commitment from Con Edison, to hire 20 overhead line workers over the first two rate years.[115]

Gas

Based on Staff's recommendation that Con Edison work with NYC Department of Buildings to align the proposed rules implementing NYC Local Law 152 with the inspection requirements of the service line definition change,[116] the Joint Proposal requires the Company to develop a plan to incentivize plumbers to perform mandated service line inspections on behalf of the Company.[117] Allowing plumbers hired by the building owners to perform the service line inspections and submit the information

---

[114] Case 19-M-0285, Utility Preparation and Response to Power Outages During the March 2018 Winter and Spring Storms, Report on 2018 Winter and Spring Storms Investigation (filed April 18, 2019) (Staff 2018 Storm Report).

[115] The Joint Proposal's provisions include 20 overhead line workers as the Company previously hired 12 workers making the total hires consistent with Staff's recommendation.

[116] Staff Pipeline Safety Panel, Direct Testimony, pp. 80-84. The Staff Panel notes that Local Law 152 was intended to assist gas utilities with the completion of service line inspections by requiring building owners to have such inspections performed. However, the language of the law does not adequately account for State and Federal inspection laws, resulting in the duplication of required inspections.

[117] Joint Proposal, p. 90.

to the Company reduces the number of inspections the Company would be required to perform creating customer savings.

Recognizing that gas meters are generally safer and more readily accessible when located outside of a premise, the Joint Proposal creates a program for Con Edison to relocate meters for residences that are no greater than two dwelling units.[118] The requirement to relocate the meters attaches when the Company is performing any planned service line replacements or new service installations and may be done when Con Edison determines that circumstances offer the customer and the Company an opportunity to relocate meters outside such as during major renovation projects. Relocation is not required where the Company determines that safety considerations, space constraints, local building code restrictions, customer refusal, or emergency repairs render such a relocation impractical.

The Joint Proposal provides for Con Edison to implement a standard interconnection agreement, based in part on agreements already developed by other New York natural gas utilities and the Northeast Gas Association, for operators and developers of renewable natural gas. The interconnection agreement will establish standards for gas conditioning and delivery into the Company's distribution system and will be incorporated into the Company's Gas Transmission Operations Manual. The Joint Proposal also allows Con Edison to contract for and purchase renewable natural gas from providers within the Company's service territory.

Con Edison also commits to provide Staff with a confidential analysis to address the concerns Staff raised in its testimony related to the Company's liquefied natural gas

[118] The Joint Proposal also provides the Company to make reasonable efforts to move meters outside for addresses that are greater than two dwelling units.

facility located in Astoria, Queens. The analysis is to be conducted by a third party with updates on the status of that analysis to be provided to Staff every six months.

Con Edison proposed a gas transmission reinforcement project in Manhattan in an effort to postpone a gas moratorium on new firm gas customers in certain NYC areas. If the Company decides to commence construction of the Manhattan Gas Transmission Project during the term of the rate plan, Con Edison will convene a meeting with Staff and the parties to review the need for the project based on its most recent gas peak demand forecast and would receive surcharge recovery during the proposed rate plan term. Any costs incurred will be subject to review and approval in the Company’s next gas rate proceeding.

Finally, the Joint Proposal requires the Company to convene a meeting with parties in 2021 to discuss the Company’s plans for addressing gas supply and gas infrastructure related issues in the Company’s next gas rates filing. The outcome of this meeting is anticipated to produce information that will assist the Commission to address potential natural gas transition issues in the next rate proceeding.

Discussion

The programs described above can provide many benefits to the health and safety of Con Edison’s customers and the public. Based on the reasons stated above, and those provided by Staff in its Statement of Support of the Joint Proposal, these programs are both beneficial and in the public interest.

Customer Operations Provisions

Section M of the Joint Proposal contains a number of programs designed to improve the experience of Con Edison’s customers. While some of these programs were proposed by the

Company, many of them were either proposed by or enhanced by party testimony.

Next Generation Customer Experience

The Joint Proposal adopts implementation of the Company's Next Generation Customer Experience Initiative, a series of programs proposed by Con Edison designed to continue meeting increased customer expectations, facilitate policy goals, and drive operational efficiencies. The Initiative is comprised of three overarching components. Con Edison refers to the components as Business Intelligence, Omni-Channel Optimization, and Back Office Automation. The intent is to increase customer self-service capabilities, provide preferences for communications channels, and increase the Company's understanding of the customer experience with its programs and services.

The Initiative includes Con Edison's Digital Customer Experience (DCX) program. In testimony, Con Edison explained that the DCX program facilitates greater customer engagement and provides for a convenient, seamless experience for customers to sign up and participate in demand-side management, distributed energy resources, new time-variant rates and other advanced energy technologies and programs. Having been implemented under its previous rate plan, the Company has used the DCX program to further State policy goals through its Home Energy Analysis tool that enables customers to better understand their energy usage and to suggest actions customers might take to achieve savings.

Under the Joint Proposal, the Company commits to clarifying its training materials regarding the handling of residential deferred payment agreements, improving its procedures for handling residential customer balance transfers, and working with large commercial customers to resolve billing issues. These commitments address concerns raised by parties as to the difficulties some customers have experienced in working through issues with Con Edison's customer service team, including not having enough information to know what options are available.

Customer Experience Center

Con Edison's customer service telephone system is operated through two physically separated server farms located on Company property. When one of the server farms is compromised, call traffic can be routed automatically to the other server. However, the system as designed cannot manage an event or simultaneous events that compromise both locations at the same time.[119]

Based on a Con Edison recommendation that Staff supported, the Joint Proposal provides that the Company perform a comprehensive study of potential solutions based on project feasibility, cost, implementation timeframe, and integration compatibility with the existing system. The Company estimated a total capital cost of $1.5 million for RY1. Finally, consistent with the Joint Proposal, on December 31, 2019, Con Edison filed a report analyzing potential technology solutions including an assessment to transition to a cloud-based system.[120]

Credit and Debit Card Fee Elimination

The Joint Proposal contains an agreement to eliminate credit and debit fee charges for residential and small commercial customers that choose to pay their bill using one of those methods. This provision was included based on the Company's evidence that customers expect the Company to provide billing and payment options on par with the options available to

---

119 Hearing Exhibit 105, Customer Operations Panel Direct Testimony, pp. 56-59.

120 Joint Proposal, pp. 96-97.

customers for their other bill payment transactions. Pursuant to a Staff recommendation, the Company will file an implementation plan, including a customer education component, to provide details on the Company's elimination of the fees. The Joint Proposal also notes that the Company may make a filing with the Secretary to revisit this fee elimination if it determines that third-party payment services are taking advantage of customers by abusing the no-fee policy.

Outreach and Education

The Joint Proposal continues Con Edison's programs of customer outreach and education. Prompted by Staff's recommendations, the Joint Proposal includes the Company's agreement to implement a new targeted program to inform low-income and at-risk customers about their customer enhancement options and targeted outreach plans specific to each borough and Westchester County. The programs are designed to allow customers to analyze their energy usage and identify opportunities for savings, to manage their accounts using tools that align with their digital preferences, and to evaluate distributed energy resource opportunities by sharing their usage data with third parties.

Residential Service Terminations During Heat Events

Con Edison currently suspends residential service terminations during significant heat events. This protocol is employed to protect the Company's most vulnerable customers. Under its existing program, the Company suspends residential terminations when the heat index is forecasted to reach 95 degrees for two consecutive days or when the City opens cooling centers. The Joint Proposal modifies the Company's current procedures by suspending residential terminations for non-payment one calendar day before the heat index is forecasted to be 93 degrees or higher, on days where the heat index reaches 93 degrees or higher, or two calendar days following a day where the heat index reached 93 degrees or higher.

Uncollectibles Positive Incentive

The Joint Proposal continues a positive incentive attached to the Company's ability to manage its Uncollectible Bills and Residential Service Terminations. Although this metric was included in the Company's 2017-2019 rate plans, the Joint Proposal adds a third component related to arrears. The modified metric would allow the Company to achieve a positive revenue adjustment of up to a maximum of $6.0 million if it can achieve certain targets of reductions in residential service terminations and bad debt write-offs, while maintaining certain levels of customer arrears.

This modification was incorporated based on Staff's observation that since this metric was established, the Company has met the positive incentive by reducing terminations and uncollectible bills, but that arrearages have increased. Staff proposed more stringent targets for the existing termination and uncollectible bills metrics, but to add an arrears component to make sure the Company is making every effort to protect, educate, and work with customers facing arrears or termination.

Discussion

The Joint Proposal's enhancements to its customer operations programs are substantial and designed specifically to address issues raised by the Company's customers and the characteristics of Con Edison's service territory. We support these programs and find that they can work to improve the customer experience. Customers can expect improvements in the Company's communications and interactions, whether regarding their options to participate in important programs or in resolving billing issues. Additionally, Con Edison's opportunity to achieve positive incentives may further reduce uncollectibles and service terminations, while also having the Company work to reduce billing arrearages, benefiting all the Company's customers.

Electric and Gas Low-Income Affordability Programs

Consistent with the Commission's examinations of utility offerings of low-income assistance,[121] the Joint Proposal provides funding for payment assistance to be made available to Con Edison's customers who have difficulty paying their utility bills timely due to financial circumstances. As required by the Affordability Orders, Con Edison's low-income programs will provide discounts to several hundred thousand customers that receive Home Energy Assistance Program (HEAP) payments or that qualify by virtue of receiving benefits under several different governmental assistance programs.

Con Edison's Electric and Gas Low Income Programs consist of two components, a discount to eligible and enrolled low-income residential customers and a reconnection fee waiver. The Company's electric and gas low-income programs are designed to recover \$70.2 million (increased from \$54.7 million) of discounts for electric and \$24.6 million (increased from \$10.9 million) of discounts for gas in each Rate Year.[122] The programs will also recover up to \$701,627 in electric reconnection fee waiver costs per year and up to \$75,000 in gas reconnection fee

[121] Case 14-M-0565, Energy Affordability for Low Income Utility Customers, Order Granting in Part and Denying in Part Requests for Reconsideration and Petitions for Rehearing (issued February 17, 2017); Order Approving Implementation Plans with Modifications (issued February 17, 2017); Order Adopting Low Income Program Modifications and Directing Utility Filings (issued May 20, 2016) (collectively, the Affordability Orders).

[122] Joint Proposal, p. 103. The increases are as compared to Con Edison's low-income program funding in the Company's 2017-2019 electric and gas rate plans.

waiver costs per year. For both the electric and gas programs, low-income participants will receive an increase in low-income benefits to offset the estimated RY 1 increase. Discounts for RY 2 and RY 3 will be adjusted through the required annual recalculation in accordance with the Affordability Orders.

The Joint Proposal continues the Company's current enrollment procedures established with the New York City Human Resources Administration and Westchester County Department of Social Services, although the process will now be done on a quarterly basis instead of twice a year as done under Con Edison's previous rate plans. Under the Joint Proposal, the Company will increase its contribution from $50,000 to $100,000 toward those agencies' costs for mailings to facilitate quarterly reconciliations. These costs are not recovered in rates.[123]

The Joint Proposal includes the qualification measures to be applied for determining low income assistance eligibility.[124] The discounts provided are tiered based on the type of qualifying assistance the customer receives. Tier 1 applies to customers receiving benefits through Supplemental Security Income (SSI), Temporary Assistance to Needy Persons/Families, Safety Net Assistance, Medicaid, Supplemental Nutrition Assistance Program; or that have received a standard HEAP grant in the preceding twelve months. Tier 2 covers customers that have received a standard HEAP grant in the preceding twelve months with one adder. Tier 3 applies to customers that have received a standard HEAP grant in the preceding twelve months along with two adders. Tier 4 customers are those enrolled in the Electric and Gas Low Income Programs

---

[123] Joint Proposal, pp. 103-107.

[124] Id., pp. 105-106.

by virtue of being enrolled in a direct vendor or one-shot utility guarantee program.[125] For Tier 1 electric customers, the category that contains the large majority of low-income assistance customers, the Company's discount increases from $10 to $16. For gas heating customers, the discount increases from $50 to a range between $60 and $87.

Reconnection Fee Waiver

Con Edison's Reconnection Fee Waiver Program allows for a one-time waiver of the reconnection fee for low income customers who had their service shut off for non-payment. The Joint Proposal includes the continuation of this program.

Con Edison noted that reconnection fees waived in the first two years of its 2017-2019, it provided waivers equivalent to 64 percent and 49 percent of its annual electric reconnection target amount of $547,000.[126] Similarly, the Company testified that it did not anticipate any need to change the amount for gas reconnection fee waivers.[127]

Discussion

In the Affordability Order, the Commission has clarified for utilities and their customers its expectations for serving low income customers. As the Commission noted in its order instituting its proceeding on affordability, it has long recognized that the "aid, care and support of the needy are public concerns," and, therefore, for decades has provided low income assistance programs for the poor through local

---

[125] Id., pp. 106-107.

[126] Hearing Exhibit 105, Customer Operations Panel Direct Testimony, p. 79.

[127] Id., pp. 81-82.

utilities.[128] Helping a utility's neediest customers meet their payment obligations is an important function of rates that benefits Con Edison's customers by reducing the amount of uncollectibles. The cost impacts on the customer population are greatly outweighed by the benefit the Company's low-income programs provide to Con Edison's most financially vulnerable customers. These provisions of the Joint Proposal are reasonable and serve the public interest.

Management Audit

Public Service Law § 66(19)(c) requires the Commission to make findings regarding a utility's compliance with any recommendations in its most recent management and operations audit report. In pre-filed testimony, Staff described the most recent management and operations audit (2014 Management Audit) of Con Edison and the status of the Company's implementation of the audit's recommendations.[129] The 2014 Management Audit was a combined audit of Con Edison and its corporate affiliate, O&R.[130] The 2014 Management Audit was performed by NorthStar Consulting

---

[128] Case 14-M-0565, Energy Affordability for Low Income Utility Customers, Order Instituting Proceeding (issued January 9, 2015), p. 1 (quoting from the New York State Constitution, Art 17, Sec. 1).

[129] Evidentiary Hearing Tr. 135-148. Staff Testimony of Elizabeth Katz Toohey. In addition to describing Con Edison's compliance with the most recent management and operations audit, Staff's testimony described three other audits: an audit concerning the reliability of customer data provided to the Commission (Case 13-M-0314), an audit concerning utility staffing levels and the use of independent contractors (Case 13-M-0449), and an audit to investigate income tax accounting (Case 18-M-0013). Staff did not raise any issues of concern with the Company's compliance with either of those audits.

[130] Case 14-M-0001, Consolidated Edison and O&R – Management and Operations Audit, Order Approving an Implementation Plan (issued October 13, 2016) (Implementation Plan Order).

Group and its report served as the basis for the Implementation Plan Order.[131] The audit focused on Con Edison's and O&R's construction program planning processes and operational efficiency, addressing issues from the combined utilities' previous management audit and assessing the companies' implementation of the Commission's Reforming the Energy Vision policies.

Discussion

The Final Report contained 30 recommendations applicable to Con Edison. At the time of the pre-filed testimony, 27 recommendations were considered complete by both Staff and the Company, with two considered completed by the Company and under review by Staff, and the last pending implementation by Con Edison. Staff also noted that Con Edison has consistently provided timely written updates and has met with Staff to discuss its progress between those written updates. We adopt the Staff Testimony of Elizabeth Katz Toohey as our findings under Public Service Law §66(19).[132]

The Company requested recovery of $73,000 for its electric operations and $36,000 for its gas operations related to the unamortized costs for conducting the 2014 Management Audit. No party contested the Company's requests, and the unamortized costs are incorporated into the Joint Proposal.

CONCLUSION

Based on the foregoing and despite some limited opposition to its adoption, we find the Joint Proposal to be in

---

131 Case 14-M-0001, Consolidated Edison and O&R – Management and Operations Audit, Management and Operations Audit Final Report of NorthStar Consulting (issued April 21, 2016) (Final Report).

132 Evidentiary Hearing Tr. 135-148.

the public interest. The Joint Proposal contains several provisions that further important State and Commission objectives. By adopting the Joint Proposal's terms, we require Con Edison to pursue important energy efficiency initiatives and non-wires and new non-pipeline alternatives, update aging infrastructure, and implement important electric reliability and gas pipeline safety programs, while mitigating the potential economic impact of the recommended rate increases on ratepayers. The Joint Proposal advances several important policy initiatives that advance the goals of climate change legislation, including discontinuing the oil-to-gas conversion incentive, undertaking more aggressive natural gas leak management, and pursuing beneficial electrification and cost-effective alternatives to traditional infrastructure investment.

The rate plans we adopt here compare favorably with the likely outcome of a litigated case among normally adversarial parties. The evidence in the record forms a rational basis for our adoption of the terms of the Joint Proposal. Having reviewed this record, we find that the Joint Proposal strikes the proper balance between the interests of ratepayers and utility investors, as described in our Settlement Guidelines.

The recommended increases in rates over the three-year term of the electric and gas rates plan are reasonable and necessary to meet increased Company costs, including higher property tax burdens, and to support spending for capital improvements and employee additions, which are necessary to improve electric and gas operations and enhance overall electric and gas system integrity, safety and reliability.

In summary and for the reasons set forth above, we adopt the terms of the Joint Proposal with the exceptions of

Section Q, paragraphs 5-11, and footnote 73,[133] on which we take no position. We find the Joint Proposal to be, in all respects, consistent with the public interest.

The Commission orders:

1. The terms of the Joint Proposal dated October 18, 2019, which is appended to this Order as Attachment A, are adopted and incorporated as part of this Order, with the exception of Section Q, paragraphs 5 through 11 and footnote 73 pertaining to agreements between parties not necessitating Commission approval or adoption to be effective therewith.

2. Consolidated Edison Company of New York, Inc. is directed to file cancellation supplements, effective on not less than one day's notice, on or before January 24, 2020, cancelling the tariff amendments and supplements listed in Attachment B to this Order.

3. Consolidated Edison Company of New York, Inc. is directed to file, on not less than three days' notice, to become effective on February 1, 2020, on a temporary basis, such further tariff amendments as are necessary to effectuate the terms of this Order. The Company shall serve copies of its filing on all parties to these cases. Any comments on the compliance filing must be filed within 14 days of service of the Company's proposed amendments. The amendments specified in the compliance filing shall not become effective on a permanent basis until approved by the Commission.

[133] Footnote 73 references an agreement between Con Edison and NYC concerning streetlight connection requests and repairs tree removal practices. This provision and those identified in Section Q are agreements between the parties that have no bearing on the rate plans and do not need Commission approval or adoption to be effective.

4. Consolidated Edison Company of New York, Inc. is directed to file such tariff changes as are necessary to effectuate the terms of this order for Rate Year 2 ending December 31, 2021, and for Rate Year 3 ending December 31, 2022 on not less than 30 days' notice. Such tariff changes shall be effective only on a temporary basis until approved by the Commission.

5. The requirement of Public Service Law Section 66(12)(b) that newspaper publication be completed prior to the effective date of the amendments for Rate Year 1 is waived. Consolidated Edison Company of New York, Inc. is directed to file with the Secretary, not later than six weeks following the amendments' effective date, proof that notice to the public of the changes made by the amendments has been published once a week for four successive weeks in daily and weekly newspapers having general circulation in the service territory and areas affected by the amendments. Newspaper notice is not waived for tariff changes necessary to implement the rate plans in Rate Years 2 and 3.

6. In the Secretary's sole discretion, the deadlines set forth in this Order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least three days prior to the affected deadline.

7. This proceeding is continued.

By the Commission,

(SIGNED) MICHELLE L. PHILLIPS
Secretary