

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on May 16, 2007

COMMISSIONERS PRESENT:

Patricia L. Acampora, Chairwoman
Maureen F. Harris
Robert E. Curry, Jr.
Cheryl A. Buley

CASE 03-G-1671 - 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 ESTABLISHING GAS EFFICIENCY PROGRAM
FOR 2007-08 HEATING SEASON

(Issued and Effective May 16, 2007)

BY THE COMMISSION:

INTRODUCTION

By this order, we authorize and require Consolidated Edison Company of New York, Inc. (Con Ed or the Company) and the New York State Energy Research and Development Authority (NYSERDA) to begin immediately to implement a gas efficiency program in the Con Ed service territory for the 2007-08 heating season. The terms of the program are outlined herein and will be further delineated in a plan to be filed by NYSERDA on June 1, 2007.

BACKGROUND

This docket is the proceeding in which we approved Con Ed's gas rates for the three-year period commencing October 1, 2004.¹ One issue that has continued to be examined in this proceeding is the potential for improvements in the efficiency of gas usage in Con Ed's service territory. One way the issue has been examined is through the monitoring of a gas efficiency pilot program included in the three-year rate plan. The program, administered by NYSERDA, is funded at the level of \$5 million over three years, or approximately \$1.66 million per year. NYSERDA has continued to provide quarterly reports regarding the status of the pilot program, which will terminate at the end of the current rate plan on September 30, 2007.

Another means of examining gas efficiency in the Con Ed territory was a study, "Natural Gas Energy Efficiency Resource Development Potential in Con Ed's Service Area," prepared by a group of consultants led by Optimal Energy, Inc., which was submitted to NYSERDA in March 2006. Under the terms of the rate plan, NYSERDA considered comments from an advisory group before submitting the plan and its own recommendations to this Commission on June 22, 2006.

NYSERDA's recommendations and the Optimal Study were issued for public comment under cover of a Notice on August 14, 2006, and comments were received on September 15, 2006. We did not take further action at that time, however, in anticipation of a new rate filing by Con Ed.

On November 2, 2006, Con Ed filed tariff amendments instituting a new major gas rate proceeding, 06-G-1332. Under

¹ Cases 03-G-1671 & 03-S-1672, Consolidated Edison Company of New York, Inc. Gas and Steam Rates, Order Adopting the Terms of a Joint Proposal (issued and effective September 27, 2004).

the usual 11-month suspension period, the Company's filing anticipated new rates going into effect on October 1, 2007, immediately after the expiration of the current plan. The testimony of the Company's witnesses accompanying the rate filing did not propose a renewed or expanded gas efficiency program in the future. In contrast, the Department Trial Staff testimony, filed March 16, 2007, proposed an expanded gas efficiency program.

On March 27, 2006, we issued a Notice seeking comment on an attached Staff Position Paper, which advocated Commission action in this docket to require Con Ed to implement a gas efficiency program for 2007-08. The Staff Position Paper noted the difficulty in timing raised by the schedule for Case 06-G-1332, which anticipates a final Commission decision at the September 2007 session. In order to implement a gas efficiency program for maximum effectiveness, Con Ed would need to begin program efforts and expenditures earlier in 2007 to be ready for the winter heating season. Consequently, the Staff Position Paper recommended that we order a one-year "bridging" program in this docket, to be outlined in a plan filed by Con Edison on June 1st, while the pending rate case might consider gas efficiency programs for future years beyond the 2007-08 heating season.

The Staff Position Paper analyzed the comments that had been filed on NYSERDA's recommendations and the Optimal Study in September 2006 and outlined a recommended program for the 2007-08 season. Under the Staff Position Paper recommendation, the program would be funded at \$14 million; it would include all firm customers, including transportation customers, but exclude interruptible customers; it would continue the allocation of program benefits established by the current pilot program of 50% to low-income residential

customers, 25% to other residential customers, and 25% to commercial and industrial customers; and it could be implemented by NYSERDA, by Con Ed itself, or through a combination of Con Ed and NYSERDA programs. The Staff Position Paper proposed that Con Ed recover program costs through a temporary surcharge, to be collected independently of rates to be determined in Case 06-G-1332, and that Con Ed be made whole for lost revenues through a mechanism to be proposed by Con Ed. Finally, the Staff Position Paper stated that it did not propose a revenue decoupling mechanism (RDM), since the transitional nature of this one-year bridging program was not an appropriate vehicle for consideration of revenue decoupling.

The proposal in the Staff Position Paper was the subject of a notice of proposed action published in the State Register on March 28, 2007. The 45-day public comment period, required before Commission action on this proposal, expired on May 14, 2007.

Comments on the Staff Position Paper were filed on April 20, 2007, by Con Ed; NYSERDA; the New York State Consumer Protection Board (CPB); the Public Utility Law Project (PULP); jointly by the Natural Resources Defense Council, Pace Law School Energy Project, and the Association for Energy Affordability (NRDC/Pace/AEA); the New York Energy Consumers Council (NYECC), and the City of New York. Reply comments by Con Ed, PULP, the City of New York, and NYSERDA were submitted on April 27, 2007. Additional comments were submitted on May 14, 2007 by Consumer Power Advocates and Westchester County and on May 15, 2007 by the New York Oil Heating Association, Inc. Rather than summarize each party's comments separately, we address the comments topically as part of our discussion, below.

DISCUSSION

Need for a Transitional Program in 2007-08

The central premise of the Staff Position Paper was that the Commission should use the vehicle of this docket to order a gas efficiency program for 2007-08, to avoid the delay in waiting for Case 06-G-1332 to come before us in September. All seven of the parties submitting comments in April support the concept of early implementation of a program for 2007-08, to be authorized in this proceeding, without waiting for consideration of the full rate case in Case 06-G-1332. Con Ed states that it is prepared to file a plan for such a program, which will focus on measures designed to reach customers by the 2007-08 heating season. The three parties submitting comments in May do not object to the concept of the program. Thus, the only issues in contention are the details of the scope and structure of the program.

Funding Level

Staff Position Paper

In the Staff Position Paper, Staff recommended that the 2007-08 program entail spending of \$14 million. Staff explained that its recommendation represented an attempt to expand the current pilot program to a program that more closely approximated the "Program Scenario" analyzed by the Optimal Study. That Program Scenario was based on a \$15 million funding level. Staff modified the Program Scenario by adding in the efficiency potential of firm residential, commercial and industrial transportation customers, whereas the Optimal Study had excluded transportation customers from the Program Scenario. However, Staff excluded interruptible customers, who had been included in the Optimal Study's Program Scenario. Taking into

account the somewhat offsetting impacts of these two modifications, Staff arrived at a funding level of \$14 million.

Comments

All of the parties commenting on Staff's proposed inclusion of transportation customers and exclusion of interruptible customers support Staff's modifications to the Optimal Study's Program Scenario. NYECC "strongly supports" Staff's exclusion of interruptible customers, asserting that including such customers in the program would not ensure environmental benefits. Consumer Power Advocates argues that interruptible customers currently make energy decisions based on valid market prices and to provide subsidies to such customers would both distort the market and reduce the competitiveness of various energy sources.

In their comments on the Staff Position Paper, Con Ed, PULP, and CPB all support the \$14 million spending level. CPB describes it as aggressive but attainable. CPB states that Con Ed should not be limited to a \$14 million cap. Rather, CPB proposes that the Company be encouraged to implement as large a gas efficiency proposal as possible, with any amounts in excess of \$14 million to be deferred for future recovery. Con Ed supports the funding level as a reasonable annual target, but cautions that the total amount of spending may not be achievable in the bridge period. Because Con Ed proposes to collect money from customers only as costs are actually incurred, it believes that the program will cost less than \$14 million during the 2007-08 program year. NYSERDA, while not directly challenging the \$14 million funding level, expresses concern that Con Ed may not be able to fully develop a program of that scope, particularly by the June 1 target date for filing of a plan. NYSERDA suggests that full implementation of \$14 million worth

of spending will be more certain if NYSERDA is the administrator of the 2007-08 program.

Both New York City and NRDC/Pace/AEA believe the \$14 million funding level is too low. Both New York City and NRDC/Pace/AEA express concerns that, at that level, a substantial amount of cost-effective energy efficiency savings may be "left on the table." New York City proposes that Con Ed be authorized to spend up to an annual budget level of \$30 million, with any unspent funds used to supplement the budgets for future years. NRDC/Pace/AEA also propose \$30 million for the bridge period, based on testimony submitted by those parties in Case 06-G-1332.

In contrast, the NYECC believes that \$14 million is too aggressive. It points out that the increase from an annual funding level of \$1.66 million under the current pilot plan to \$14 million is an increase of 743%, which it characterizes as unrealistically ambitious. Instead, it supports a funding level of \$5 million for the 2007-08 efficiency program. Westchester County recommends that the funding level remain at the current level of the pilot program until there has been more experience with the program and study of its costs and benefits. Any increase above the pilot level, Westchester County asserts, should await the results of Case 06-G-1332 so that costs to be borne by ratepayers can be considered in conjunction with any other rate increases.

The City of New York recommends that NYSERDA be directed to evaluate the level of annual funding necessary to achieve the maximum amount of cost-effective efficiency reductions. It notes that the Optimal Study arbitrarily suggested \$15 million for the Program Scenario on which it based its evaluation. The City of New York notes, however, that that Program Scenario does not necessarily reflect the annual funding

level necessary for the implementation of the most aggressive, yet cost-effective, efficiency program. Consequently, the City believes that additional valuable information could be provided by NYSERDA.

In its reply comments, Con Ed responds to the City of New York's proposal that NYSERDA be directed to evaluate an appropriate level of annual funding. Con Ed states its belief that an examination of the results from the current pilot program would provide a better guide to future potential than a study, especially given the completion of the Optimal Study in 2006. Accordingly, says Con Ed, the program administrator should follow a rigorous measurement and verification program based on the program Con Ed uses for its electric targeted demand side management program. The results of such a program, Con Ed asserts, will provide the best information on whether and how an efficiency program might be expanded in the future.

In its reply comments, the City of New York clarifies its funding proposal by emphasizing that its \$30 million budget proposal represents a cap, not a floor, for spending. The City asserts that only programs that meet the total resource cost test should go forward for inclusion in the efficiency program, without regard to any minimal spending floor to be achieved.

In its reply comments, NYSERDA states a desire to clarify some statements made by Con Ed regarding the "pay as you go" funding proposal. NYSERDA asserts that any schedule of payments for efficiency programs should be graduated in a manner that closely reflects the difference in time between when funds are committed and when they are eventually paid, and suggests that such a payment schedule can be put in place regardless of whether Con Ed or NYSERDA administers the program.

Conclusion

For this transitional, bridging program, we will order funding at the \$14 million level. The majority of parties recognize that this is a reasonable, achievable budget for the 2007-08 program year, while, at the same time, it represents a significant increase over the level of funding for the pilot program. While it is a significant increase in percentage terms over the prior program, it nevertheless results in a relatively small impact on Con Ed's customers. The incremental increase in spending represents less than a two percent increase in delivery revenues and less than a one percent impact on total bills. We further accept the apparent proposals by both Con Ed and NYSERDA to attempt to correlate, as much as possible, the timing of collection of funds and disbursement of moneys for program costs.

We base the \$14 million annual funding level, as well, on an attempt to reflect the Program Scenario analyzed in the Optimal Report. While neither the authors of that study nor NYSERDA expressly endorsed the Program Scenario as the right level of funding for an efficiency program, it was selected to mirror the scope of electric efficiency programs previously endorsed by this Commission. Therefore we believe it is a reasonable level to target for an initial, one-year program that is being created here. Our attempt to reflect the Program Scenario reflects our expectation that the program will be modeled after the type of program analyzed in the Optimal Study and be designed to achieve similar results. We believe that the parties share this expectation, in that the consistent references to the scope of the program in terms of its funding level represent a sort of shorthand for the scope of efforts undertaken and benefits to be achieved. Obviously those

benefits, rather than the mere expenditure of funds, remain our goal.

The commenting parties, including the Company, endorse Staff's modifications of the Program Scenario -- the inclusion of transportation customers and exclusion of interruptible customers -- as appropriate changes for an efficiency program. Those modifications in turn form the basis for the \$14 million funding level, working from the prototype Program Scenario. In contrast, although NRDC/Pace/AEA do not challenge Staff's modifications in their comments here, they rely on testimony in the rate case, which in turn suggests that the inclusion of transportation customers justifies a significant expansion of the scope of the program. In fact, however, as the Staff Position Paper explained, the further exclusion of interruptible customers has an offsetting effect, resulting in the \$14 million level as the best attempt to mirror the Program Scenario. We agree that the program should include firm transportation customers and exclude interruptible customers, as proposed in the Staff Position Paper.

Inclusion of Oil-to-Gas Programs

Staff Position Paper

The Staff Position Paper was silent on the topic of oil-to-gas conversion programs as a possible type of efficiency program to be included in the 2007-08 program.

Comments

In its comments, Con Ed proposes that efficiency programs involving oil-to-gas conversions are especially important now, because of the substantial impacts such conversions have on the reduction of greenhouse gas emissions. Such conversions not only increase energy efficiency but also provide significant environmental benefits, Con Ed asserts. Con

Ed therefore proposes to include such conversion measures as part of its 2007-08 efficiency program.

Apparently anticipating this proposal, NRDC/Pace/AEA include in their initial comments an objection to inclusion of more than a very limited portion of program funding for oil-to-gas conversions. While they support Con Ed's efforts to encourage such conversions, they believe such activity should be pursued by Con Ed without reliance on public benefit funding. Rather, because the benefits to Con Ed of these programs are sufficient, the programs do not require additional incentives or funding out of gas efficiency program expenditures.

Responding to Con Ed's proposal, the New York Oil Heating Association, Inc. objects to inclusion of oil-to-gas programs. It asserts that more analysis of the technical aspects of such a program is needed. It further asserts that diverting efficiency funds from upgrades to conversions defeats the purpose of the program, both because money would not go to existing customers and because the result would be an increase in the demand and use of natural gas.

Conclusion

We agree with the comments of NRDC/Pace/AEA that there are already sufficient incentives for Con Ed to facilitate oil-to-gas conversions without the additional expenditures of ratepayer funds allocated to this gas efficiency program. Therefore, at this time, we will not allow the \$14 million funding authorized here to be used for oil-to-gas conversions. To the extent that there is some funding for such conversions included in the prior rate plan, which does not expire until September 30 of this year, Con Ed can of course continue to engage in such activities and use such budgeted funds through September 30, 2007. Moreover, continuation of such programs outside of the funding to be administered by NYSERDA pursuant to

this order can be considered in the upcoming rate case, 06-G-1332 later this year. Of course, Con Ed should coordinate any such programs with NYSERDA to the extent necessary to avoid inconsistency or conflict in achieving efficiency goals.

Allocation of Benefits

Staff Position Paper

In its Position Paper, Staff proposed to continue the same allocation of program benefits among low income (50%), residential (25%) and commercial/industrial (25%) customers that is currently employed under the pilot program.

Comments

The parties generally support the Staff proposal, with no party filing any objection to the proposal. PULP applauds the continued focus on low-income customers. The NYECC notes that all consumers will benefit from reduced demand on finite resources and from efforts to reduce the carbon emissions that are driving global climatic changes. Westchester County does not appear to object but rather to emphasize that the residential and low-income programs must include programs for those living in single-family residences. It also asserts that the program must provide for an equitable share of benefits for Westchester residents and businesses.

Conclusion

As Staff noted in its Position Paper, the current allocation employed in the pilot program seems to be working well and meeting the needs of the various interested constituencies. We have no evidence at this time that the current allocation does not address the concerns expressed by Westchester County, and the other parties expressing a view are unanimous in supporting a continuation of the pilot program's allocation. Consequently, we order continuation of that same allocation.

Administration of Program

Staff Position Paper

In the Staff Position Paper, Staff noted the varying points of view regarding administration of a gas efficiency program that had been included in comments on NYSERDA's recommendations and the Optimal Study. Some parties had pointed out that the efficiency of having NYSERDA, which currently administers electric efficiency programs through the System Benefit Charge Program, similarly administer gas efficiency programs. Other comments cited the intimate knowledge of the service territory and the customer base possessed by Con Ed employees as a reason for the Company to administer gas efficiency programs. Further, Con Ed had noted the disparity between its electric and gas service territories and cited concerns about the possible mismatch of payments and benefits for such programs for its customers. Staff concluded that it would support a proposal by Con Ed for administration of the program either by NYSERDA, the Company, or a combination of program administration.

Comments

Con Ed comments by proposing that it be the primary administrator of the program. It states that it will work with NYSERDA for NYSERDA to continue to implement the programs Con Ed believes can be best implemented by NYSERDA or jointly by NYSERDA with Con Ed. However, Con Ed would be the overall program administrator. Con Ed believes that, in this way, it can best integrate the efficiency program with its infrastructure planning processes, that it can best use its own internal expertise, including access to confidential customer information, and that it can best utilize its specific experience in administering a rigorous monitoring and verification program, including pre- and post-installation

inspection of all work, to ensure that efficiency measures are actually being implemented. It asserts that NYSERDA has not traditionally had rigorous monitoring and verification and does not have the incentive to carry out such programs. It states further that, because the gas efficiency programs administered by NYSERDA are relatively small, this is a good time to transition administration of the program to Con Ed.

In its comments, NYSERDA states that the pilot program in operation now was designed to accommodate expansion both in duration and funding levels. It suggests that it would be a relatively easy matter for NYSERDA to ramp up that program, whereas it may be unrealistic to expect Con Ed to design and develop a program to be in place to serve the demands of the 2007-08 heating season.

The City of New York, CPB, NRDC/Pace/AEA, and NYECC also support the idea that NYSERDA should continue to administer the gas efficiency program, while PULP takes no position on the matter. Several parties cite to NYSERDA's past successes in implementing the gas pilot program and in carrying out electric efficiency programs through the System Benefit Charge Program. NYECC, while advocating for continuation of NYSERDA as the administrator of the bridge program, notes that this short-term arrangement should not preclude any future responsibility for implementation of a long-term program by Con Ed.

Several parties hold open the possibility for Con Ed and NYSERDA to work together collaboratively. NRDC/Pace/AEA recommend that NYSERDA and Con Ed work together to the maximum extent possible to maximize the benefits of a bridging program. They advocate a multi-party collaborative process in which the parties continue to explore the feasibility of other administrative arrangements. CPB recommends that the Commission

explicitly direct Con Ed and NYSERDA to work collaboratively to maximize the effectiveness during the bridging period.

The City of New York proposes that, at least for the bridge period, it join together with Con Ed and NYSERDA to develop, implement and oversee the gas efficiency program. The City of New York notes its own substantial information regarding the future development within the City, the ability to modify building codes and regulations, and its role in marketing gas efficiency programs as important elements to bring to bear in improving a gas efficiency program. It also notes the specialized information that Con Ed possess regarding its customers. It proposes that all these assets be combined with those of NYSERDA, which can take advantage of existing people, systems and infrastructure during the bridging program.

Con Ed's reply comments reiterate its desire to be the program administrator. Con Ed asserts that a review of NYSERDA's efforts to date make apparent that NYSERDA has just begun the gas efficiency program and that little will be lost from transitioning the program to Con Ed at this time. In the alternative, if the Commission decides that NYSERDA should be the program administrator in 2007-08, Con Ed should be relieved of the obligation to file a program plan on June 1, and NYSERDA instead should file the plan by that date, according to Con Ed. Con Ed further states that there is no need for the explicit direction by the Commission of cooperation between Con Ed and NYSERDA, as proposed by CPB. Rather, it notes the successful collaboration between the two entities on other energy efficiency programs that are on-going in Con Ed's service territory. Con Ed credits the provision in its electric rate plan for incentives, regardless of administration of electric efficiency programs, as a factor in encouraging its cooperation in such programs.

In its reply comments, PULP criticizes Con Ed for its failure to recognize NYSERDA's historic operational role in energy efficiency programs, through which it has developed management experience and a knowledge base. PULP suggests that, unless Con Ed can convincingly demonstrate a concrete economic or organizational advantage from its own administration of efficiency programs, its proposal to run the program itself should be rejected. PULP also criticizes the proposal of the City of New York to take part in management of an efficiency program. PULP suggests that any City activities be funded by the City, not by Con Ed funds. Moreover, PULP suggests that an active role by the City of New York might inappropriately divert resources away from the benefit of Con Ed ratepayers in Westchester County.

The City of New York's reply comments assert that the 2007-08 program should be jointly administered by NYSERDA and Con Ed, with the City as an active partner in the development and implementation of programs. It invites participation by Westchester County, as well, to the extent it so desires to be included. In the long term, the City expresses the view that Con Ed would be the logical choice as administrator, but the City acknowledges that the long-term issue need not be resolved now.

NYSERDA's reply comments emphasize that minimization of costs should be a high priority in the design of a gas efficiency program. As noted above, it states its commitment to ensure that its funding commitments be structured to reflect the timing differences between commitment and actual payment of funds. It further notes that it adds to the program fund any interest earned on funds in its possession. NYSERDA urges the Commission to consider administrative costs and any incentive amounts to be paid to Con Ed in order to secure the Company's

participation in the program in making a determination regarding the program administrator.

Conclusion

We believe that, at least for this short-term bridging program for 2007-08, NYSERDA should continue as administrator. NYSERDA is already "on the ground" administering the pilot program, with program staff in place. In its comments, NYSERDA has expressed a willingness to continue as the administrator and to expand the pilot program to the scope recommended here. It is thus the logical entity to be able to ramp up a program in the time period necessary to attain meaningful efficiency savings for the 2007-08 year.

This decision to continue with NYSERDA is made without prejudice to any future proposals to shift the administration of some efficiency programs to Con Ed or to institute entirely new programs to be run by Con Ed. Our decision here is based on the short time frame available to implement a program, which weighs heavily in favor of merely expanding the existing NYSERDA-run program. In the longer term, however, other considerations might lead to a different conclusion. We urge Con Ed and NYSERDA to work together, both in ensuring the success of this 2007-08 program and in the design of efficiency programs for the longer term.

We applaud the City of New York for its willingness to take an active role in gas efficiency measures. However, given our goal of simple, quick implementation of a program for this year, we do not believe this is the appropriate time to redesign a program that would involve the City as an active party in implementation.

Given our decision to make NYSERDA the program administrator, we agree with the Company that NYSERDA should have the responsibility to file the plan called for by this

Order, as proposed in the Staff Position Paper. NYSERDA should consult with Con Ed in developing the details of the program in a plan that it should file on June 1.

Monitoring and Evaluation

Staff Position Paper

The Staff Position Paper did not address monitoring and evaluation of a gas efficiency program.

Comments

CPB comments that it is concerned by the omission of reporting and programmatic evaluation from the Staff Position Paper. It asserts that monitoring, accountability, and evaluation are critical project components. Therefore, CPB proposes that all interested parties be provided with quarterly statements reporting on expenditures, deliverables, and associated benefits. It suggests that these reports be presented in a detailed fashion similar to what is provided in the pilot program.

Con Ed comments that it is fundamentally important that any efficiency program be designed with verification processes that lend themselves to incorporation into the Con Ed planning processes. The Company proposes to develop criteria for verification of energy efficiency into its planning processes. It asserts that installation of efficiency measures and the savings resulting from them will be determined by rigorous monitoring and verification protocols, based upon the protocols that Con Ed has developed for its electric targeted demand side program.

Conclusion

We agree with the parties that monitoring and evaluation are important elements of a gas efficiency program. They are currently part of the pilot program being administered by NYSERDA, and we believe the lack of reference to these

elements in the Staff Position Paper was a mere oversight. Monitoring and evaluation protocols must be included as part of the program to be implemented in 2007-08. Given that the 2007-08 program will essentially be an expansion of the current pilot program, we think it is likely that NYSERDA will be able to rely on the same monitoring and evaluation protocols already in place. NYSERDA's June 1 plan must include provisions for monitoring and evaluation.

Incentives for Con Ed

Staff Position Paper

In the Staff Position Paper, Staff did not propose any incentive measures for Con Ed in carrying out a gas efficiency program for 2007-08.

Comments

In its initial comments, Con Ed proposes that shareholder incentives, in addition to program cost recovery and lost revenue recovery, are necessary to make an efficiency program meaningful. The Company points out that, under its current electric rate plan, Con Ed receives incentives for implementation of energy efficiency programs whether they are administered by Con Ed or NYSERDA, in recognition of the crucial support that Con Ed can provide to NYSERDA. Consequently, Con Ed proposes at least 30% of net resource benefits as a company incentive as part of the gas efficiency program for 2007-08.

In reply, PULP strongly opposes Con Ed's proposal. PULP first criticizes Con Ed for the lack of explanation regarding what "30% of net resource benefits" means, how such benefits would be measured and who would do the measuring, and what the source of payment of such benefits would be. PULP further criticizes the concept that Con Ed might recover such an incentive even if NYSERDA, rather than Con Ed, administers the program. Alternatively, PULP states, if the Company proposal is

to collect the incentive only if Con Ed itself administers the program, then this incentive cost is another factor weighing in favor of selection of NYSERDA as the program administrator.

Con Ed uses the occasion of its reply comments to further emphasize the incentives it receives under its electric rate plan for participation in and/or cooperation with targeted electric demand side management programs. It asserts that such incentives are appropriate to maintain alignment between the interests of consumers and utility company investors to vigorously pursue energy efficiency.

Conclusion

We do not authorize any incentive mechanism for Con Ed to implement or to cooperate with NYSERDA in implementing gas efficiency programs for the 2007-08 heating season. Given that this bridging program is designed to be a simple program that can quickly be put in place for this year, the inclusion of a controversial element such as incentives overly complicates the process. They are an element that could be considered over the longer term and with greater deliberation and input from the parties in the context of Case 06-G-1332. In the meantime, we expect Con Ed's full cooperation in working with NYSERDA to encourage gas efficiency in 2007-08.

Recovery of Program Costs and Lost Revenues

Staff Position Paper

In the Staff Position Paper, Staff proposed that direct program costs be recovered through a separate surcharge, so that the development of rates in Case 06-G-1332 would not be affected by this bridging program. Staff further proposed that Con Ed be allowed to recover lost revenues attributable to the program, through a mechanism to be proposed by Con Ed. Finally, Staff stated that the bridging program was not an appropriate vehicle for consideration of a revenue decoupling mechanism.

Comments

In its initial comments, Con Ed agrees that program costs should be recovered via a surcharge, which would be imposed on customers as costs are incurred, rather than the full cost of an annual program being estimated and collected from the outset. It further proposes that a lost revenue recovery mechanism be in effect for the bridging program unless a workable RDM can be put in place. It does not outline the mechanics of such a revenue recovery mechanism.

NYECC also supports the proposal to recover program costs through a temporary surcharge and to implement a lost revenue recovery mechanism. CPB proposes that funding for the program ordered in this docket be included in the revenue requirement for base rates to be determined in Case 06-G-1332, with any deviation between actual and estimated amounts to be deferred for future disposition. The City of New York suggests that the Commission explore the possibility that any investment the Company makes in energy efficiency programs be added to its rate base.

PULP asserts that, if lost revenue adjustments are made to account for reduced sales due to efficiency programs, similar account should be taken of any revenue impacts that result from rate design changes. It asserts that, when rates are redesigned so that the minimum charge is increased, there is a stimulative effect which decreases end-user elasticity in response to incremental usage. It asserts that prior changes in the minimum charge were not factored into future sales forecasts. PULP asserts that such impacts should be considered if there is also to be consideration of the impact of efficiency programs. PULP also expresses its support for the Staff proposal that an RDM not be considered in conjunction with this gas efficiency program.

In reply comments, PULP states that program expenditures have a direct impact on revenue requirement and are not simply the result of a recommended change in rate design. Accordingly, PULP states that the use of a special on-the-bill surcharge to fund the program may be justified, as it would improve program transparency and greatly discourage the redirection of these funds away from energy efficiency programs by the Company or program administrators in later years. PULP states, however, that the issue of a recovery mechanism need not be decided now, because it is unrelated to the timely implementation of the 2007-08 heating season program. Therefore, PULP asserts, the choice of recovery mechanism can be addressed in Case 06-G-1332 and the decision will be timely in all respects.

Consumer Power Advocates urges the Commission to continue to exclude interruptible customers from responsibility to fund efficiency programs. It asserts that it is unfair to require funding from customers who do not participate in the program and that assessing program costs on interruptible customers will cause them to migrate to alternate fuels without furthering the goals of the program.

Conclusion

In this order, we direct and authorize program expenditures so that work on gas efficiency can begin immediately. We need not resolve the precise mechanism for recovery of program costs at this time. Rather, we direct Con Ed to defer all program expenses for the June-through-September period, such that recovery of such costs can be addressed in our decision in Case 06-G-1332. At that time, as proposed by PULP, we can implement a surcharge mechanism to recover the costs, establish base rates that include such costs, or authorize

continued deferrals, based upon the more fully developed record in that proceeding.

Similarly, we will allow recovery of lost revenues attributable to the gas efficiency program, but we defer the establishment of a mechanism to accomplish this until consideration of the broader rate case, 06-G-1332, in September. At that time, we can consider such mechanisms, including potentially a revenue decoupling mechanism, for recovery of lost revenues, and can take into account any lost revenues attributable to the June-to-September time frame between this order and the 06-G-1332 order. Con Ed should measure any such lost revenues in the same manner that it now measures lost revenues under the pilot program.

The Commission orders:

1. NYSERDA is directed to file, on or before June 1, 2007, a plan for implementation of a gas efficiency program for the 2007-08 heating season for the Consolidated Edison Company of New York, Inc. service territory, consistent with the terms of this order.

2. Con Ed shall defer program costs and documented revenue losses attributable to the gas efficiency program ordered herein for further disposition in Case 06-G-1332.

3. This proceeding is continued.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Secretary