

Filed Session of April 13, 2005  
Approved as Recommended  
and so Ordered  
By the Commission

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JACLYN A. BRILLING  
Secretary  
Issued and Effective April 18, 2005

STATE OF NEW YORK  
DEPARTMENT OF PUBLIC SERVICE

April 5, 2005

TO: THE COMMISSION

FROM: OFFICE OF ELECTRICITY AND ENVIRONMENT – RATES & TARIFFS

SUBJECT: CASE 00-M-0504 – Proceeding on Motion of the Commission Regarding Provider of Last Resort Responsibilities, the Role of Utilities in Competitive Energy Markets, and Fostering the Development of Retail Competitive Opportunities.

Tariff filings by Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc. to make revisions to their tariff schedules to phase-out hedged instruments for mandatory time-of-use customers.

SUMMARY OF  
RECOMMENDATION: Staff recommends that the filings be allowed to become effective, as discussed below.

SUMMARY

Consolidated Edison Company of New York, Inc. (Con Edison) and Orange and Rockland Utilities, Inc. (O&R) filed proposed tariff amendments in compliance with the Commission's Statement of Policy on Further Steps Toward Competition in Retail Energy Markets, issued and effective August 25, 2004 (Policy Statement) and Order on Petitions for Clarification or Rehearing, issued and effective December 15, 2004 (December 24 Order), in Case 00-M-0504. The tariff revisions

phase-out the cost/benefits associated with hedging instruments for customers billed under mandatory time-of-use rates beginning with hedges expiring on or after April 30, 2005 (Con Edison) and expiring on or after May 1, 2005 (O&R).

Staff has reviewed the companies' filings, which are in compliance with the Commission's orders in this proceeding, and recommends that the revisions be allowed to become effective, subject to the caveat discussed below.

### PROPOSED FILINGS

The Policy Statement required the utilities to make revisions to their tariffs to implement the Commission's directive that, as existing hedges expire, they should not be renewed for customers billed under mandatory time-of-use rates (Policy Statement pp. 34-35).

#### Con Edison

Con Edison proposes to revise its Monthly Adjustment Clause (MAC) and the Adjustment Factor – MAC to reflect the phase-out of hedged instruments for its customers billed under mandatory time-of-use rates. The proposed amendments specify that hedges that expire on or after April 30, 2005 will not be replaced for full-service or retail access customers billed under mandatory time-of-use rates. Additionally, Con Edison proposes to separately state Adjustment Factors – MAC for customers billed under time-of-use rates and for customers billed under non time-of-use rates to reflect Con Edison's hedging policy.

#### O&R

O&R proposes to revise its Market Supply Charge (MSC) to phase-out the costs/benefits associated with hedging instruments for customers billed under mandatory time-of-use rates. The proposed amendments specify that the costs/benefits associated with hedging instruments applicable to the period commencing on or after May 1, 2005 for contractual commitments entered into after the date of the Policy Statement will be allocated to all service classifications, except for those customers billed under mandatory time-of-use rates, based on the base MSC cost associated with each service classification.

In addition, O&R proposes changes of a housekeeping nature to remove pre-divestiture provisions that are no longer applicable.

### PUBLIC COMMENT

Pursuant to State Administrative Procedure Act §202(1), notices of proposed rulemaking were published in the State Register on February 16, 2005. The public comment period has expired and no comments were received. Also, both Con Edison and O&R have complied with the statutory requirements of newspaper publication.

### DISCUSSION AND CONCLUSION

In the Policy Statement, the Commission articulated its vision for an open, robust competitive market and called for further steps to be taken to ensure competition in retail energy markets. Its policies were guided by the successes and challenges experienced both in New York and other states. As part of its review of the markets, the Commission concluded that New York has a workably competitive wholesale market, and a retail market for the largest usage customer classes that has attracted most of the electric and gas load. However, the Commission acknowledged that there is additional work to be done in order to foster competition whenever possible through steady progress in retail access program design and ratemaking, such as addressing utility portfolio management strategies. Specifically, the Commission addressed the utilities' obligation to undertake commodity purchasing using a hedged portfolio approach to limit volatility and concluded that, for the largest usage electric customer classes under mandatory time-of-use rates, "... existing hedges should be allowed to expire without being renewed" (Policy Statement, p. 34). To implement this policy, Con Edison and O&R submitted revised tariff leaves as discussed above. Staff has reviewed those proposed changes and finds the changes comply with the Commission's objective in this proceeding with regard to portfolio management.

With regard to the additional changes of a housekeeping nature proposed by O&R, the tariff language proposed to be deleted was only relevant until title of the

company's generating assets were transferred. Title has been transferred and the language is now superfluous.

With respect to Con Edison, the Commission recently adopted a rate plan that took effect on April 1, 2005. The company filed tariff amendments, effective April 1, 2005, that implement the terms and conditions of the Rate Order. Since those tariff amendments included changes to the same leaves at issue in this matter, allowing the tariff leaves filed in this matter to become effective, as filed, would not be appropriate. The Commission should require Con Edison to conform the two sets of tariff amendments to effect all of the changes required by the Rate Order and the Policy Statement.

#### RECOMMENDATION

It is recommended that:

1. the amendments filed by Orange and Rockland Utilities, Inc., listed in the Appendix, be allowed to become effective;
2. Consolidated Edison Company of New York, Inc. be directed to file, on not less than one day's notice, further revisions to its tariff schedule, incorporating the amendments discussed herein into the tariff leaves filed and in effect as a result of the Rate Order issued in Case 04-E-0572, with the revised amendments allowed to become effective without further Commission action;
3. the requirement of Section 66(12) of the Public Service Law as to newspaper publication of the further revisions directed in Clause 2 above be waived; and
4. the proceeding be continued.

Respectfully submitted,

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SUBJECT: Filing by CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

Amendments to Schedule P.S.C. No. 9 – Electricity

Ninth Revised Leaf No. 164  
Fifteenth Revised Leaf No. 163  
Sixteenth Revised Leaf No. 162

Issued: January 25, 2005

Effective: May 1, 2005

SAPA: 00-M-0504SA13 – STATE REGISTER – February 16, 2005

NEWSPAPER PUBLICATION: February 4, 11, 18 and 25, 2005

SUBJECT: Filing by ORANGE AND ROCKLAND UTILITIES, INC.

Amendments to Schedule P.S.C. No. 2 – Electricity

Eighth Revised Leaf No. 22W  
Eleventh Revised Leaves Nos. 22V, 22X, 22Z  
Thirteenth Revised Leaf No. 22Y

Issued: January 25, 2005

Effective: May 1, 2005

SAPA: 00-M-0504SA12 – STATE REGISTER – February 16, 2005

NEWSPAPER PUBLICATION: February 17, 24, March 3 and 10, 2005