



STATE OF NEW YORK
EXECUTIVE DEPARTMENT
STATE CONSUMER PROTECTION BOARD

Eliot Spitzer
Governor

Mindy Bockstein
Chairperson and Executive Director

April 20, 2007

Jaclyn A. Brilling
Secretary
Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: 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.

Dear Secretary Brilling:

The New York State Consumer Protection Board ("CPB") submits this letter in response to the New York Public Service Commission's Notice seeking comments on a proposed gas efficiency program for Consolidated Edison Company of New York, Inc. ("Con Edison") for the 2007 – 2008 heating season.¹

The Department of Public Service ("DPS") proposed a transitional gas efficiency program that would be in effect for one year only, until a longer-term plan can be developed in Con Edison's gas rate case (Case 06-G-1332). DPS proposes that the program be funded at a level of \$14 million to be collected through a temporary surcharge to gas rates, consisting of the specific energy efficiency programs included in a current pilot program being administered by the New York State Energy Research and Development Authority ("NYSERDA").

The CPB applauds the Commission for taking action to ensure that a gas efficiency program will be available in Con Edison's service territory in the 2007 – 2008 heating season, since the current pilot program will soon expire and a comprehensive proposal developed in Case 06-G-1332 is unlikely to be implemented in time to address its sunset. It is important that Con Edison's customers have the benefit of an uninterrupted and expanded cost-effective gas efficiency program.

¹ Case 03-G-1671, Notice Seeking Comment on Gas Efficiency Program for Consolidated Edison Company of New York, Inc. for 2007-08 Heating Season, March 27, 2007 ("March 2007 Notice").

The CPB supports the DPS proposal, with some exceptions and additional enhancements as noted below. In general, the DPS proposal is aggressive, achievable and, if implemented as intended, represents an effective use of ratepayer funds. We agree that at this time, NYSERDA is in the best position to provide cost-effective gas energy efficiency programs, particularly since the pilot program administered by the authority has achieved positive results and the infrastructure for expanding those programs in a cost-effective manner is already in place. Additionally, the CPB agrees that the new one-year program should continue the allocation of funds in the pilot program among the low-income, residential and commercial/industrial sectors.

We also support, in general, the proposal to provide \$14 million of funding for this program. Funding of that magnitude approximates the level of support for electric efficiency programs under the System Benefits Charge program, and represents a roughly seven-fold increase over the funding for the current pilot program. A program of this size, at this time, is aggressive and achievable. Coupled with the reporting requirements identified below, it also represents an effective use of scarce ratepayer funds. The \$14 million program represents a reasonable target at this time, given the magnitude of the proposed increase and the limited experience with gas efficiency programs in New York. However, it should not be construed as a limitation. Should the Commission determine, based on the status reports explained below, that additional cost-effective gas conservation is achievable, it should authorize spending beyond the \$14 million target. The company would be permitted to defer any expenditures exceeding \$14 million, for future recovery from ratepayers.

The CPB recommends several modifications to the DPS proposal to maximize benefits and help ensure that funding is being used in a highly effective manner. Most importantly, we are concerned that the DPS proposal is completely silent on the reporting and programmatic evaluation that should accompany this transition program. Monitoring, accountability and evaluation are critical project components, due to the magnitude of the increase in recommended funding and the limited experience of NYSERDA, Con Edison and the Commission in conducting gas efficiency programs. It is imperative that interested parties be provided with quarterly statements reporting on the expenditures, deliverables and associated benefits. This information should be presented in a detailed fashion similar to what is provided in the pilot program. That data will enable parties, and the Commission, to evaluate the need for any changes to ensure that funding is used effectively and that the program is achieving its benchmarks.

The CPB does not support the DPS recommendation that the cost of the program be recovered through a "temporary surcharge to gas rates, independent of whatever rate determinations are made in Case 06-G-1332."² A separate surcharge is unnecessary, may be confusing to consumers and may be counterproductive. Instead, the estimated cost of the gas efficiency program as determined by the Commission in this proceeding, should be included in the company's base delivery rates established in Case 06-G-1332, and any

² March 2007 Notice, attached Position Paper on Gas Efficiency Program for 2007-08 Heating Season, p. 1.

difference between actual and estimated costs of the program could be deferred and combined with other credits and debits. This approach would not interfere with the permanent delivery rates to be established in Case 06-G-1332, since the Commission would resolve the instant proceeding long before it addresses matters in the rate case. Furthermore, it appears that the DPS proposal contemplates a temporary surcharge applicable only to customers of Con Edison's gas commodity service. All customers of Con Edison's delivery service should contribute to this program, since enhanced gas efficiency will place downward pressure on gas prices and result in environmental benefits that will serve all delivery customers well.

We also recommend that the Commission explicitly direct Con Edison and NYSERDA to work collaboratively to maximize the effectiveness of the transition program and to identify programs and functions that the utility should begin to perform in the 2008 – 09 heating season. Con Edison should share information with NYSERDA regarding customers that may benefit from improved gas efficiency, to help maximize the efficacy of the transition program. In addition, both parties should work together to identify the gas efficiency programs and functions that they can provide more proficiently than the other, in preparation for the transition of some gas efficiency programs from NYSERDA to the utility in 2008.

Thank you for your consideration of these comments.

Respectfully submitted,

A handwritten signature in black ink that reads "Mindy Bockstein". The signature is written in a cursive, flowing style.

Mindy Bockstein, Chairperson and Executive Director
Douglas W. Elfner, Director of Utility Intervention
John M. Walters, Intervenor Attorney