BEFORE THE NEW YORK PUBLIC SERVICE COMMISSION

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 13-E-0030
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.	Case 13-G-0031
Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Steam Service.	Case 13-S-0032

REBUTTAL TESTIMONY AND EXHIBITS

of

NANCY BROCKWAY

on behalf of

PUBLIC UTILITY LAW PROJECT OF NEW YORK, INC.

June 21, 2013

Q. Please state your name and business address.

A. My name is Nancy Brockway. My business address is 10 Allen Street, Boston, MA.

Q. On whose behalf are you testifying in this docket?

A. I am testifying on behalf of the Public Utility Law Project of New York, Inc.

Q. Are you the same Nancy Brockway who Direct Testimony and Exhibits in this docket were filed May 31, 2013?

A. Yes.

Q. What is the purpose of your rebuttal testimony?

A. The purpose of my rebuttal testimony is to respond to certain testimony affecting low-income rate issues filed by the Staff Customer Service Panel, the Staff Rate Panels, and witness Noel for the City of New York.

Q. Please summarize the Staff Customer Service Panel testimony to which you will respond in this rebuttal testimony.

A. Staff agrees with the Company's proposed low-income programs, including agreeing with the Company that both gas and electric low-income rates be limited by a hard cap (under which rate elements are revised based on the number of customers expected to be enrolled, in order to maintain a fixed target total rate reduction) and agreeing with the Company's proposal that Medicaid recipients no longer be considered income-eligible for the reduced rates. Staff conditions its support for the Company's low-income rate proposals on adoption of its additional recommendations, including proposing that gas discounts for non-heating customers be eliminated and the savings used to reduce the volumetric rate for gas low-income heating customers. Staff Customer Service Panel Testimony at 12-14. The Staff Customer Service Panel also proposes that, should the City agencies decline to continue covering the costs of matching their lists of income-eligible clients to the Company's customer lists, which facilitates efficient and more comprehensive enrollment, participation in the Low Income Programs be limited to those customers whose eligibility the Company can determine for itself. Staff Customer Service Panel, at 18.

Q. Starting with Staff's proposal regarding the maintenance of the present cap on the overall low-income rate reductions, do you agree with Staff's proposal?

A. No. The Staff's proposal, in its agreement with the Company's approach, maintains the present structure of the Low Income Rates as a fixed level of total rate reductions for low-income customers. As I suggested in my Direct Testimony, setting a hard cap on such rate reductions does not take into account the need of the low-income customers for bill adjustments to make their bills more affordable. Direct Testimony of Brockway, at 25. Low-income bill reductions should be developed based on the extent of need, and not varied to satisfy an arbitrary predetermined total dollar amount.

Q. But should the Commission ignore the impact of the Low Income Program revenue reductions on the other customers, who must make the Company whole for these reductions?

A. No. I am not proposing that the Commission ignore the impact of a Company's Low Income Program on other customers. It is conceivable that rendering bills affordable for 100% of the Company's low-income customers would shift unreasonable amounts of revenue requirement to other customers, and that rate reductions will only go part way toward the goal of affordability. The question in this and any other case is whether the shift is unreasonable, in light of the benefits to the Company, its customers generally, and low-income residents of New York.

Q. Does Staff agree that it is proper and beneficial for the Company to have affordable Low Income Rates?

A. Yes. In addition to noting the long-standing Commission policy approving reduced low-income rates, Staff persuasively sets out the reasons why making bills affordable for low-income households is good policy and good for the Company and its customers. The Staff Customer Service Panel itself explains the policy and cost benefits of a rate reduction making energy more affordable, as shown in the following questions and answers from pages 6 to 8 of their testimony:

> Q. Do you support low income programs for Con Edison customers?
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> A. Yes. Energy costs represent a substantial financial burden on low income families. Information from a variety of sources, including the Residential Energy Consumption Survey conducted quadrenially by the Federal Energy Information Administration, indicates that while middle and higher income customers' energy costs comprise in the area of 1% to 5% of their total income, lower income customers' energy costs are 10% to 20% of their income. Thus, many low income customers cannot easily afford essential utility services such as electricity and natural gas. These families typically must trade off among food, shelter, medicine and energy purchase decisions. In addition, for heating customers, loss of a household's primary heat source presents serious health and safety risks, due to both the potentially fatal effects of cold weather and the fire and health hazards resulting from using unsafe alternative heating sources. Furthermore, low income families tend to live in poorly maintained and energy inefficient housing. This wastes energy, contributing to the higher percentage of income these customers pay in energy expenses and increasing the likelihood that these customers will be unable to pay their utility bills. For these reasons, programs to address the needs of low income customers are essential.
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> Q. Why should such programs be funded by utility customers?
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> A. There are a number of reasons. First, helping low income customers pay their gas and electric bills helps utilities and their customers. Utilities carry uncollectible expenses that are paid for by all customers as a cost of doing business. Collection costs and working capital on the unpaid bills of low income customers impose additional costs on the utility and its customers. These costs can be reduced with the effective implementation of a low income program. Savings include reductions in costs associated with credit and collection, arrears and bad debt, deposit maintenance, repeated payment plan negotiations, credit agency fees, diversion of revenue from arrears to reconnection fees and diversion of revenue resulting from forced moves.

Q. Since you and Staff agree that it is proper to take the impacts of the Low Income Program on the revenue requirements of other customers, why do you disagree with setting a hard cap on Low Income Rate reductions?

A. Setting a hard cap, particularly the cap that was in place in the last three-year rate period, is arbitrary and does not reflect a considered balancing of interests and impacts. Also, the impact on other customers of increasing the revenue reductions to meet the need is tiny. For example, the present electric Low Income Rate cap represents less than half a percent of the total electric revenues of the Company ($38.75 million/$8 billion). Even adding the increase in the electric Low Income Rate cap proposed by New York City witness Noel ($45.9 million), Noel testimony at 9 (an increase I support if benefits are determined by allocations under a cap), the total shift in revenue requirements away from low-income customers does not represent ¾ of a percent of total Company revenues ($45.9 million/$8 billion). Similarly, accepting UIU witness Collar's proposed improvements in the gas Low Income Rates could be accommodated without "meaningful" adverse impacts on other customer classes. UIU's enhancements could also be accommodated. UIU proposes reducing customer charges for low-income non-heating customers by an additional $1.50, and reducing customer charges for low-income heating customers by $10. Collar Direct at 12. UIU estimates such a gas Low Income Rate design would produce an overall revenue shift of approximately $13.9 million, as compared to the $6.4 million cap Staff and the Company support. *Id.* Consider that Staff's recommendation is to reduce electric distribution rates by 3.2%, overall, and to decrease total gas rates by 6.5% overall. Exhibit SERP-3, Exhibit SGRP-3. Under Staff's Low Income Rate proposal, the rate reductions for gas and electric low income customers could be significantly increased, and participation expanded, while at the same time lowering rates for *all* customers. Increasing the low income rate reductions would simply mean that other customers' bills are reduced less.

Q. Are there other reasons why a hard cap on low-income revenue reductions may produce too weak a response to the problem of affordability?

A. Yes. A hard cap, especially one carried over arbitrarily from an earlier rate case period, does not reflect the cost savings made possible by reducing low-income revenue requirements. The Staff itself recognizes that there are such offsetting system benefits. Staff Customer Service Panel, at. 8-9. The net impact on other customers thus cannot be measured simply by a calculation of the percent impact of the revenue shift.

Q. You testified on direct that if rates were to increase as the Company proposes, the low-income rates should be frozen, rather than the amount of revenue requirement shift. Why is that not just as arbitrary?

A. Capping the rates or capping the discount both use simplifying assumptions when designing Low Income Rates. Capping the *rate differentials* reflects the view that rates for low-income customers should be kept as close to an affordable level as possible, and that allowing *any* increase in effective rates for low-income customers will necessarily undermine affordability for some such households. Capping the *revenue shift*, as proposed by Staff and the Company, would allow exactly such an unaffordable increase in effective Low Income Rates, if the Company's overall delivery revenue requirement proposal is adopted, without regard to any analysis of a reasonable level of revenue shifting. Note that either way, the design of the rates has no impact on the Company's revenue requirement.

Q. Has Staff proposed changes to either the gas or electric rates and rate design that demonstrate the adverse effects of operating under a cap?

A. Yes. Given that Staff has agreed with the Company's proposed cap on revenue shifts, Staff proposes to accommodate the cap within the gas Low Income Program by eliminating the $1.50 reduction in customer charges for non-heating customers (and applying the revenue shift thus foregone to reducing the volumetric rate for low-income heating customers). Staff Customer Service Panel, at 13. Staff argues that using the Low Income Rate "budget" in this way would be a better distribution of available funds. *Id.* Misconceiving Low Income Rates as a budgeted expense item with a hard cap requires Staff to increase rates for some low-income gas customers in order to reduce rates for some other low-income gas customers.

Q. Why does Staff propose to remove the non-heating customer charge reduction, and reduce the volumetric rate for low-income heating customers, keeping the total revenue shift within the Company's proposed cap?

A. Staff argues that heating customers are most at risk from lack of funds to pay large utility bills, and the attendant health and safety risks associated with loss of heating service due to nonpayment. Staff Customer Service Panel, at 13. Staff further argues that the reduction in the customer charge for low-income non-heating gas customers "provides no meaningful benefit to participants." *Id.*, lines 11-12. In support of this assertion, Staff notes that "the typical cooking-only bill is less than $20 per month." *Id*. at lines 12-13. Implicitly, Staff is arguing that a choice must be made between maintaining the present reduction in customer charges for non-heating customers and reducing the volumetric charge for heating customers in the Low Income Program.

Q. Do you agree with Staff's proposal to eliminate the reduction in the customer charge for low-income non-heating gas customers?

A. No, for a number of reasons. First, for a low-income non-heating household, an 8% decrease in the monthly bill represents a significant step towards making the bill affordable, and does represent a "meaningful" step towards affordability for such customers. By the same token, an 8% increase in the monthly bill would be a meaningful erosion of the affordability of such customers' bills. Also, as I have suggested, setting a cap on the revenue shift for Low Income Rates is arbitrary. The Low Income Rate design that has been in place in the last three years is not a zero-sum game.

Q. Has Staff has shown that its proposed change to the volumetric portion of the gas heating customers' Low Income Rate cannot be adopted while still maintaining or even improving the reduction in customer charge for low-income non-heating gas customers?

A. No. By the Staff's own reasoning, a revenue shift to support greater affordability for Low Income Rate gas heating customers would not impose a "meaningful" impact on other customers. If a family of three, with income of about $1,600 per month, can easily absorb a bill increase of $1.50 per month (as suggested by the Staff), then a non-low-income household can even more readily absorb such an increase. And, if the monthly bills of all customers not on a Low Income Rate were increased by $1.50 per month to accommodate an overall improvement in the affordability of gas for low-income heating customers, the annual value of the Low Income Rate reduction could be increased by $19,624,000, or more than 3 times the present $6.4 million "budget" Staff and the Company propose as a limit on gas Low Income Rate affordability. Adopting Staff's logic, one could argue that the total dollar value of the gas Low Income Rate reductions should be at least $26 million. This amount is twice the revenue shift proposed by UIU in Mr. Collar's testimony. Such a revenue shift would enable gas Low Income Rates to be made considerably more affordable and under the Staff's logic, even such a significant improvement to the affordability of gas Low Income Rates can be achieved within a reasonable revenue requirement shift to other customers. A similar analysis could be made of UIU's proposed enhancements to the electric Low Income Rate.

Q. What do you conclude from this application of Staff's logic on the gas Low Income Rates?

A. I conclude that maintenance of an arbitrary "budget" cap should not be used to force the elimination of the customer charge reduction for low-income non-heating gas customers. Staff's own logic further supports my general point that the balance in revenue requirements between Low Income Rate customers and all other customers should be developed based on a realistic analysis of how much reduction is needed to make bills for low income customers affordable, and how much revenue can reasonably be shifted among rate classes to achieve such a goal, not on an arbitrary cap carried over from earlier rate periods.

Q. Is there any way, short of freezing rates for low-income customers as you proposed in your direct testimony, to take into account the imperative that rates for such households should not go up on any account while still acknowledging the potential impact on other customers?

A. Yes. It would not be necessary to impose a freeze on rates for low-income households under one or more of the overall rate adjustment proposals offered by Staff and intervenor witnesses. That is, to the extent the Commission approves these proposed reductions to the Company's existing revenue requirements (and rates), maintaining the present discount levels off of regular residential rates would not produce an increase in rates for members of the Low Income Rate classes. One could also reasonably adjust the low income rates to further improve their affordability, in the event of a decrease in the Company's revenue requirements, and thereby make more progress toward the goal of making Con Edison's rates affordable for low-income customers, without a meaningful adverse impact on non-low-income customers.

Q. Can similar logic be applied to the question of the electric Low Income Rate?

A. Yes. On the electric side, under similar logic, one could readily adopt witness Noel's proposed adjustment of the electric program budget by $7.15 million as well, to accommodate the expected increase in participants, Noel direct testimony at 9, without having a meaningful impact on the rates paid by other customers. Such a small amount represents only 0.16% of Staff's proposed overall electric distribution revenue requirement for the Company ($7.15 million/$4,405 million).

Q. In light of the proposals of Staff and intervenors to reduce the Company's revenue requirement from present levels (and so reduce rates for the residential classes), do you still recommend that rates for participants on the Low-Income Program be frozen at current levels?

A. No. In light of the proposals by Staff and intervenors to reduce the Company's revenue requirements, I would modify my proposal to argue that delivery rates for low-income customers be set at the lower of frozen rates or the rates that are produced from the application of the Company's method of determining the Low Income Rates by discounting from non-low-income rates that are reduced to meet a reduced revenue requirement. In either case, the additional participants witness Noel has identified for the electric Low Income Rate should be included, on the same terms as existing participants.

Q. Please turn to your discussion of the dispute between the Company and the City over the costs of the mailing process used to match City records of income-eligible low-income households and Company customers. What is the total amount in dispute?

A. According to the Staff testimony citing a data response from the City, the cost of the matching services provided by the City is $50,000. Staff Customer Service Panel, at 17.

Q. Why does the City seek payment for this process from the Company?

A. As witness Noel states, the City has no funds for the purpose of running the Company's

Low-Income Program, and it cannot continue to shift funds from other pressing purposes to provide the matching service to the Company. Noel Direct, at 14-15.

Q. Why does Staff suggest that the Company cannot pay for the matching service?

A. Staff puts forth a legal argument that appears based on the concept that the matching service is a City function, rather than a utility function. Staff Customer Service Panel at 19. On this basis, it concludes that the Company may not pay the City for such costs.

Q. If the City declines to fund the matching process, what does Staff recommend?

A. Staff recommends that, if the City declines to fund the matching process, the program should be restricted to those customers whose income-eligibility the Company can establish from its own records. Staff Customer Service Panel at 18.

Q. Do you agree with Staff's analysis and recommendation?

A. No. I am not testifying as a lawyer (I have retired from the bar in New York State). However, a common sense view of the situation would show that the matching service provided by a local social services district which determines eligibility of households for various public benefits based on need is for a Company function, not for a local social services program as suggested by Staff. The Company uses the efficient and very inexpensive matching service to identify participants for its programs, rather than limiting the affordability option to a significantly lower number of its low-income customers. Attempting to manually enroll the customers who could efficiently be enrolled through the more automatic matching process would likely be much less effective in enrolling certified eligible customers, and at the same time would be much more costly for ratepayers than the modest amount of incremental costs incurred by the social services agency. I see no reason why the Company cannot work out some arrangement to reimburse out-of-pocket costs of the matching service that local social services districts provide for the Company's administration of its low income rates. Indeed, the City states it will continue to contribute its staff resources to the effort. Noel Direct, at 17. Staff's draconian proposal to eliminate the successful and cost effective matching process rather than requiring the Company to cover its modest costs is an unreasonable approach and should be rejected.

Q. What is Staff's position on the Company's proposal to eliminate Medicaid as a qualifying program for the gas Low Income Rate?

A. The Staff Customer Service Panel recommended that the Commission adopt the Company's proposal to eliminate Medicaid as a qualifying program for the gas Low Income Rates. Staff Customer Service Panel, at 14.

Q. What is Staff's reasoning for this position?

A. Staff agrees with the Company that the eligibility criteria for the electric and gas Low Income Rates should conform, and notes that Medicaid is not a qualifying program for the electric Low Income Rates. *Id.* Staff also argues that eliminating Medicaid as a qualifying program for gas Low Income Rates would help to control the level of benefits, and will further moderate Low Income Rate participation levels. *Id.*

Q. **Do you agree with Staff's reasoning regarding elimination of Medicaid as a qualifying program for gas Low Income Rates?**

A. No. Staff's approach continues the unreasonable assumption that there needs to be a "budget" for Low Income Rates. The objective of setting Low Income Rates should not be to "moderate" customer selection of the Low Income Rate. The objective should be to provide as make low-income bills as affordable as possible for all low-income customers, without imposing unreasonably high rate shifts on other classes of customer.

Staff does not try to justify its support for eliminating Medicaid from the list of income-qualifying programs used to determine whether the gas Low Income Rates are available to a given residential customer. Absent such a demonstration, the alleged inconsistency in availability for the Low Income Rates between gas and electric customers should be resolved by adding Medicaid to the list of such means-tested programs used to determine availability of the electric Low Incomes Rate, as UIU witness Collar testifies. See, Collar Direct Testimony, at 19-21.

Q. **What is New York City's position with regard to using SSI as a qualifying program for Low Income Rate availability?**

A. New York City witness Noel proposes that receipt of SSI not be a qualification for either gas or electric Low Income Rates. Noel Direct at 10. Ms. Noel argues that the City may not match Company customers against the SSI recipient data base, and therefore the use of the program should be dropped at least for New York City. *Id.*

Q. **What is your response to the City's proposal to drop SSI as a qualifying program?**

A. I disagree with Ms. Noel's proposal. If indeed, as Ms. Noel suggests, 100% of SSI recipients are also recipients of one or more of the other qualifying means-tested programs, then dropping SSI should have no impact, as she testifies. *Id.* However, Ms. Noel does not support this hypothesis, and does not claim to make the same statement regarding non-City recipients of SSI. Further, other utilities around the country have been able to establish workable list-matching protocols with the Social Security Administration, which administers SSI. Finally, even if such list-matching were not feasible, that in itself is not a reason to exclude potential SSI-only recipients from the availability of Low Income Rates. Especially in light of Ms. Noel's assertion about the one-to-one correspondence between SSI receipt and participation in one or more of the other qualifying programs, there should be no great administrative burden for the Company to make the Low Income Rates available to such customers even if a social services district is unable to use a match to identify them.

Q. Does this complete your rebuttal testimony?

A. Yes.