

STATE OF NEW YORK

Public Service Commission

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09089/08-E-0836;08-E-0837;08-E-0838;08-E-0839

PSC SEEKS ADDED TENANT PROTECTIONS WHEN SUBMETERING — Focus on Rent-Assisted, Low-Income Households in Electric Heated Buildings —

Albany, NY—09/17/09—The New York State Public Service Commission (Commission) today put on hold approvals to submeter electricity in certain multi-family buildings in New York City until each building owner develops a plan to address specific tenant issues. The plans will help ensure tenants, as a group, do not suffer financial harm if submetered electric service is implemented. Additionally, the building owners must provide thermostats in each dwelling unit, continue to implement energy efficiency measures, and let tenants know how they can reduce electricity use.

“Specific concerns about the impact of submetering on tenants in certain types of buildings have been raised,” said Commission Chairman Garry Brown. “Our action identifies the issues, and provides an opportunity for the owners of these electrically-heated buildings to resolve the concerns subject to our approval. Our action also begins the process that will provide guidance to landlords for procedures to follow in the review of pending and future submetering proposals for electrically-heated residential buildings. We need to be especially careful to ensure low-income residents are not unduly burdened when buildings are submetered.”

The Commission’s action focused on New York City properties owned by Frawley Plaza, LLC, Metro North Owners, LLC, North Town Roosevelt, LLC, and KNW Apartments, LLC. The properties encompass some 2,800 dwelling units and are all situated in the service territory of Consolidated Edison Company of New York, Inc.

In developing plans to submeter residential buildings, the building owners must demonstrate: 1) energy efficiency programs for residential multi-family buildings administered by the New York State Energy Research and Development Authority (NYSERDA) have been or will be implemented; 2) accurate, accessible thermostats are available to control the heat in each major living or sleeping space in all dwelling units; 3) tenants, as a whole, are not harmed financially by electricity bills that would significantly exceed the anticipated rent reductions when submetering is implemented; and 4) tenants have information regarding tools they may use to better control their electricity usage.

Furthermore, the building owners will need to consult with tenants and interested parties in developing plans to achieve these objectives, and to submit their plans to the Commission for consideration. Submetering of electric service may not proceed by the building owners until the Commission approves the plans to further protect tenants.

Many of the issues associated with the submetering proposals for residential buildings of the building owners stem from the mismatch between the results of the rent reduction formulas specified for use by various state and city housing agencies for low-income households, and the electric bills that tenants would pay when submeters are used to bill tenants in electrically-heated buildings. Accordingly, the Commission stated that Staff of the Department of Public Service will work with other governmental agencies and interested parties to correct the underlying cause of the inequities that may occur in these circumstances.

In revisiting the manner in which building owners implement submetering conversions, the Commission also determined additional requirements would apply prospectively to petitioners seeking to submeter electric service in residential buildings to include: 1) an explicit prohibition on the treatment of electric charges as rent; 2) clarification of the appropriate complaint handling procedures for submetered customers; and 3) establishment of requirements of adequate landlord notice to tenants when submetering is being considered and, later, when it is being implemented.

The Commission noted that it favors metering of individual dwelling units to promote efficiency and equity. Tenants in master-metered buildings that are not submetered do not pay for

electricity based on a measurement of its actual use in their apartment, but on the average usage of occupants of similarly-sized units in the buildings as a component of their rent. As a result, tenants using relatively small amounts of electricity pay proportionately more for the electricity while also subsidizing those using relatively larger amounts of electricity. Also, tenants who make adjustments in their living patterns to reduce consumption and save energy, see no benefit from this in their monthly rent.

With direct metering or submetering of individual dwelling units, electricity consumers pay bills that are directly related to their actual consumption. This establishes an incentive for the efficient use of electricity, provides a tool for consumers to manage their energy usage and bills, and furthers the State's energy efficiency goals.

The Commission's decision regarding petitions for rehearing to submeter electric service relate to the following residential locations: 1295 Fifth Avenue and 1660 Madison Avenue, owned by Frawley Plaza (Case 08-E-0836); 1940-1966 First Avenue and 420 102nd Street, owned by Metro North Owners (Case 08-E-0837); 510-580 Main Street, Roosevelt Island, owned by North Town Roosevelt (Case 08-E-0838); and 1890 Lexington Avenue and 1990 Lexington Avenue, owned by KNW Apartments (Case 08-E-0839).

The Commission's decision, when issued, may be obtained by going to the Commission Documents section of the Commission's Web site at www.dps.state.ny.us and entering the appropriate case number in the input box labeled "Search for Case/Matter Number." Many libraries offer free Internet access. Commission orders may also be obtained from the Commission's files Office, 14th floor, Three Empire State Plaza, Albany, NY 12223 (518-474-2500).