STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on November 14, 2013

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Garry A. Brown
Gregg C. Sayre
Diane X. Burman

CASE 13-M-0061 – In the Matter of Customer Outage Credit Policies and Other Consumer Protection Policies Relating to Prolonged Electric or Natural Gas Service Outages.

ORDER ESTABLISHING POLICIES

(Issued and Effective November 18, 2013)

BY THE COMMISSION:

We have stated our interest in developing a consistent statewide policy covering customer outage credits and other consumer protection policies as they relate to prolonged electric or natural gas service outages.[1] By Notice issued March 22, 2013,[2] we invited comments on proposed uniform policies, including minimum utility practices that would apply in cases of prolonged outages, such as those caused by major storms and other emergency events, as well as the recovery of related costs and lost revenues (March 2013 Proposal). In this Order we adopt those proposed policies, with certain modifications. These new minimum standards and revenue recovery policies will provide regulatory certainty for electric utilities and assurance for

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[1] *E.g.*, Commission Session, December 13, 2012.

[2] Case 13-M-0061, In the Matter of Customer Outage Credit Policies and Other Consumer Protection Measures Relating to Prolonged Electric or Natural Gas Service Outages, Notice Soliciting Comments (issued March 22, 2013). (Notice)

electric utility customers who are dealing with the aftermath of prolonged outages.

BACKGROUND

As a result of the enormity of the impact of Superstorm Sandy on utility systems and utility customers in New York State, we directed utilities to take a number of measures in consideration of the impacts of the outages on their customers. For example, we temporarily suspended or waived several regulations and tariff provisions for customers who were significantly adversely impacted by the storm, including foregoing the assessment of late payment charges and pro-rating and crediting customers for portions of customer charges related to the period of loss of service. We also approved utility proposals that resulted in shareholders absorbing the lost revenues associated with pro-rating the customer charge, instead of allowing utilities to recover such lost revenues through their revenue decoupling mechanisms (RDM).[3] Further, the utilities voluntarily ceased their normal collection and service termination practices during and for some time after the completion of restoration efforts.

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[3] See *e.g.*, Case 12-M-0533 – Petition of Consolidated Edison Company of New York, Inc. for Waiver of Certain Tariff Charges; Case 12-M-0545 – Petition of Orange and Rockland Utilities, Inc. for Waiver of Certain Tariff Charges; Case 12-M-0554 – Petition of New York State Electric and Gas Corporation for Waiver of Certain Tariff Charges; Case 12-G-0555 – Petition of the Brooklyn Union Gas Company d/b/a National Grid NY, KeySpan Gas East Corporation d/b/a National Grid for Waiver of Certain Tariff Charges, Order Approving Waiver of Certain Tariff Charges (issued December 14, 2012) and Case 12-M-0501, In the Matter of a Temporary Waiver and Suspension of Late Payment Charges Due to Payment Barriers Caused by Hurricane Sandy, Order Extending Temporary Waiver and Suspension of Late Payment Charges (issued December 14, 2012).

Lengthy service outages resulting from Superstorm Sandy, together with the occurrence of Hurricane Irene and Tropical Storm Lee, led us to consider adopting a formal policy that would be applicable in all prolonged outage situations and applied uniformly to all energy utilities.

At our request, Department of Public Service Staff (Staff) developed a proposed uniform policy of minimum utility practices that would be applicable as a result of prolonged outages due to major storms and other emergency events, including the criteria for recovery of associated costs and lost revenues. On March 22, 2013, we issued a Notice inviting all interested parties to submit comments on that proposal, and to respond to the comments received by others. The March 2013 Notice was published in the New York State Register on April 10, 2013.

We received initial comments from Joint Utilities (Consolidated Edison Company of New York, Inc. (Con Edison); Orange and Rockland Utilities, Inc. (Orange & Rockland); Central Hudson Gas & Electric Corporation (Central Hudson); The Brooklyn Union Gas Company d/b/a National Grid NY, KeySpan Gas East Corporation d/b/a National Grid, and Niagara Mohawk Power Corporation d/b/a National Grid (jointly, National Grid); New York State Electric & Gas Corporation (NYSEG) and Rochester Gas and Electric Corporation (RG&E)), National Fuel Gas Distribution Corporation (National Fuel or NFG) and the City of New York (NYC). Reply Comments were received from Joint Utilities, National Fuel, NYC and the Utility Intervention Unit of the New York State Department of State’s Division of Consumer Protection (UIU). Supplemental comments were received on September 16, 2013 jointly from Con Edison, Orange & Rockland, Central Hudson, NYSEG and RG&E. Supplemental reply comments were received from NYC on September 30, 2013.

MARCH 2013 PROPOSAL

The March 2013 Proposal recommends minimum requirements concerning customer credits and suspension of certain business-as-usual activities related to credit and collection that would apply in the event of prolonged electric or natural gas service outages. Concerning customer credits, utility customers who are out of service for a period exceeding three days resulting from an emergency, with the exception of interruptible gas customers, would receive a credit on their customer charge, or its functional equivalent, incurred during the period of the outage. The credit would be applied to customer bills within 60 days of the outage. This proposed policy is intended to avoid the imposition of such charges to customers who were not receiving service.

Concerning the suspension of normal business practices, for certain customers (as defined below) affected by outages exceeding three days[4] resulting from an emergency, all collection-related activities, with the exception of issuance of service termination notices and assessment of security deposits, should, at a minimum, be suspended during the outage, and for an additional number of days equal to the duration of the outage. Collection-related activities include but are not limited to termination of service for non-payment and assessment of late payment charges. Some, but not all, of these activities are set forth in each respective Company's tariff.

For outages where the Federal Emergency Management Agency (FEMA) declares a region as eligible for both individual and public assistance, these suspensions would be applicable for at least 30 days for all residential customers located in the designated area and for any residential or non-residential

[4] Three days is the period for which the 16 NYCRR 105.4(c) utility storm performance reviews are required.

customer who notifies the utility and provides credible support that his/her financial circumstances have changed as a result of the underlying emergency. For all other outages of more than three days, these business-as-usual activities would be suspended during the outage and for an additional number of days equal to the duration of the outage, for all residential customers who experienced such outages and for any customer who notifies the utility and provides evidence that his/her financial circumstances have changed as a result of the emergency. For the non-tariff issues - collection activities and suspension of service for non-payment - this proposal is to be construed as guidance that could be modified in consultation with Staff as circumstances dictate to ensure customer accessibility to heating-related financial assistance. These proposed suspensions are intended to provide customers affected by prolonged outages a reasonable amount of time to recover from those outages.

As a result of Superstorm Sandy, the Commission approved utility petitions to provide credits to customers and suspend normal credit and collection activities, which included utility commitments not to seek recovery of the associated costs.[5] The March 2013 Notice invited comment on whether utilities should recover lost revenue from customer credits associated with prolonged outages identified above, as well as

[5] The Commission approved a total of approximately $7.5 million in customer credits by energy utilities as a result of Hurricane Sandy. (Cases 12-M-0533, 12-M-0545, *et al.*, Order Approving Waiver of Certain Tariff Charges, (issued December 14, 2012)).

the volumetric portion of delivery bills that was not collected from customers who experienced prolonged outages.[6]

Concerning the volumetric portion of delivery bills that was not collected from customers who experienced prolonged outages, under traditional ratemaking, utilities bear the risk of revenue shortfalls. Under Commission-approved Revenue-Decoupling Mechanisms (RDMs), however, forecasted and actual utility revenues are trued-up and ratepayers bear the risk of forecast errors. RDMs were implemented to eliminate potential disincentives to utilities' promoting and implementing more efficient energy use, and the current RDM true-ups include, among other things, lost revenues attributable to achievement of more efficient energy use but they also include the lost revenue from any other causes, including prolonged outages. Therefore, the volumetric portion of delivery revenues that was not collected from customers as a result of Superstorm Sandy, was collected, or will be collected, from all customers, including those affected by the outages, pursuant to RDMs.

The Notice invited comment on two alternative proposals. Under the first, RDM true-ups would exclude the revenue impact of the credits identified above, as well as the volumetric portion of delivery bills that was not collected from customers who were out of service more than three days as a result of storms or other emergencies. The alternative proposal would continue to allow utilities to recover those credits and

[6] Under traditional ratemaking, a utility's rates are established based on projections of revenues, including forecasts of credits provided to customers in a typical year. However, utilities have generally not provided credits to customers who experienced prolonged outages, and the impact of such credits is not reflected in current utility rates. Similarly, the costs of suspending business-as-usual credit and collection activities as a result of emergencies, such as any resulting increase in uncollectible expense, is generally not reflected in utility rates.

lost revenues, except where the Commission finds fault with a utility's restoration activities.

The intent of the March 2013 Proposal to exclude customer credits and lost volumetric delivery revenue from RDM true-ups is to re-establish incentives for prompt service restoration that were in place before RDMs and for customers to avoid paying for service they did not receive.

COMMENTS

The Joint Utilities and NFG filed comments in which they recommend that the Commission not adopt a statewide policy on these matters, and instead permit utilities the discretion to implement credits and suspension of late payment charges, collection activity, and termination of service for non-payment. The utilities also recommend that the Commission provide for utility recovery of the costs of such actions and that RDMs not be modified. Utilities also propose that in the event that the Commission establishes a statewide policy, customer credits and suspension of certain charges and practices should be applicable only in very rare circumstances. NFG also proposes that any policies adopted in this proceeding be applicable to electricity service only, since incidents of prolonged outages of natural gas are very rare.

NYC recommends that the consumer protections identified in the March 2013 Proposal be enhanced, including by providing such protections for a minimum of two weeks for all customers without service for three or more days. NYC also recommends that uncollected delivery revenue associated with prolonged outages be excluded from RDM targets so that such revenues are not recovered from customers. NYC and UIU recommend that the conditions under which enhanced consumer protections would be provided be expanded to include declarations of emergency by the State.

In their supplemental comments, Con Edison, Orange & Rockland, Central Hudson, NYSEG and RG&E reiterated their views that a policy mandating customer credits and suspension of collections is not necessary and would impose costs on utilities. Those utilities also quantified the financial impact of the actions they took on these matters in the aftermath of Superstorm Sandy, as well as the impact of the reduction in delivery revenue attributable to the storm. In reply, NYC echoed its comments that a mandatory policy regarding customer credits and suspended collections policy is necessary and reasonable, and that utilities should not be able to recover associated lost revenues through their RDMs.

DISCUSSION

Statewide Policy

In their respective comments, Joint Utilities and NFG both oppose the concept of a statewide policy on these matters. In general, the utilities assert that they alone should have discretion to issue credits and suspend normal business activities related to credit and collection, but suspension of such actions should not be required or mandated. They claim that they are able to design their response to prolonged outages based on specific facts and circumstances. However, in their respective comments, NYC and UIU oppose the Joint Utilities and NFG on this point. NYC notes that utilities have provided no details, parameters or guidelines concerning the actions they would take in the absence of a uniform statewide policy, and that utilities did not request waiver of tariff provisions concerning customer charges and late payment charges in response to prolonged outages prior to Superstorm Sandy.

A uniform statewide minimum policy will provide greater consistency and transparency for utilities regarding the minimum actions concerning customer billing and collection activities in response to prolonged outages. As noted by NYC, losing utility service for three days represents a major disruption to peoples' lives as a result of, among other things, limited access to their homes particularly for those residing in high-rise apartments, spoiled food, and in some cases, the need to make repairs. A consistent statewide policy will help assure customers recovering from prolonged outages that they will not incur late payment charges or have their utility service terminated due to events beyond their control. A uniform minimum policy will also ensure that utility customers throughout New York State receive the same minimum protections after all prolonged outages attributable to emergencies. In addition, adopting this policy will obviate the need for numerous case-by-case regulatory filings and emergency Commission actions that would otherwise be required to achieve our policy goals concerning utility response to emergency events.[7]

Further, we do not find persuasive the Joint Utilities' argument that adoption of a generic policy will lead to administrative difficulties and costs. We recognize that utilities may incur costs to administer a policy of this nature and we consider those costs in designing the generic policy, as described below. The utilities successfully implemented customer credit and other policies of the type we address here in response to Superstorm Sandy. Some utilities have voluntarily suspended certain credit and collection activities

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[7] For example, as a result of Superstorm Sandy, the Commission took approximately nine separate actions to approve tariff filings, issue emergency orders, and confirm emergency orders relating to consumer protections.

after significant storms, including Hurricane Irene and Tropical Storm Lee. It is reasonable to expect that it would cost utilities less to administer known procedures than to design and implement plans on an ad hoc basis as major events unfold. By providing clear direction to utilities as to the minimum actions they should take for customers experiencing prolonged outages, we are eliminating uncertainty as to our expectations, which may lead to lower utility administrative costs than in the absence of a consistent policy. In addition, as explained further below, we are providing for flexibility, in special circumstances, regarding our policy relating to non-tariff activities such as collection activities and suspension of service for non-payment.

The Joint Utilities further assert that a policy to broadly suspend credit and collections policies, without considering case-specific circumstances, may be harmful to utilities and customers. In support of this claim, Joint Utilities state that Con Edison has a significantly higher number of accounts and associated dollars in arrears as of January 2013 than it did in January 2012, and that some utilities are experiencing much higher levels of uncollectibles as a result of the suspension of collection activities associated with Superstorm Sandy.

While higher arrearages occurred in the months following Superstorm Sandy it is not clear whether these were caused by the storm itself, the suspension of normal collection activity, the overall economy, or other factors. Since December 2012, arrearages have declined each month through the latest data in May. Similarly, while uncollectibles may have also increased temporarily, it is uncertain as to the exact cause, and whether this level will persist. Nevertheless, to the extent that our new policies increase utility costs, utilities may seek recovery to the extent permitted by their rate plans or through a deferral petition.

Electric utilities,[8] and gas utilities to the extent discussed below, are hereby directed to implement this new minimum statewide policy and to file the appropriate tariff modifications. We emphasize that utilities may elect to go beyond these minimum requirements. Similarly, although we expect that utilities will suspend collection activities, assessment of security deposits, and suspension of service for non-payment, as detailed herein, we recognize that there may be circumstances in which the duration of the suspension of such non-tariff activities might reasonably be less than specified here. We provide flexibility for utilities to suspend those non-tariff activities for a shorter duration than detailed here, in special circumstances, in consultation with the Department, upon a demonstration of the reasonableness of such action. Finally, each electric utility and gas utility[9] shall ensure that its tariff relating to late payment charges is consistent with 16 NYCRR Section 11.15(a) which states that a utility "may" impose a one-time or continuing late payment charge.

<u>Events Covered by Statewide Policy</u>

The Joint Utilities assert that any generic policy should be limited to events where customers experienced outages of at least five days and where FEMA has declared a region as eligible for both public and individual assistance. They argue that any generic policy concerning consumer protection policies applicable to prolonged outages should rarely be implemented,

[8] Electric utilities are Con Edison, Orange & Rockland, Central Hudson, National Grid, NYSEG, and RG&E.

[9] Gas utilities are Con Edison, Orange & Rockland, Central Hudson, National Fuel, National Grid, NYSEG, and RG&E.

and that the three-day outage threshold in the March 2013 Proposal is inconsistent with that objective. NFG argues that any generic policy for customer credits and suspension of normal business activities should be limited to disasters declared by FEMA where the Commission finds fault with a particular utility's restoration activity.

As detailed above, outages of more than three days can cause significant disruptions for utility customers. The proposal by the utilities to limit the application of a generic policy to outages of at least five days is without a solid foundation whereas the proposed three-day outage threshold uses the same timeframe as do the 16 NYCRR Part 105 regulations governing utility outage preparation and system restoration performance reviews.[10] Based on the historical frequency of performance reviews submitted following prolonged outages, it does not appear to be so numerous that it would result in over implementation of certain protections. For these reasons, the three-day threshold duration of outages, irrespective of whether a FEMA declaration has been made, will trigger the imposition of our minimum standards for customer credits and suspension of certain business-as-usual activity related to credit and collection.[11] NFG’s further suggestion that a generic policy be

[10] 16 NYCRR Part 105.4(c)– Electric Utility Emergency Plan. This regulation specifies that the utility is to file a review of its outage preparation and restoration performance *where the restoration period exceeds three days* (*i.e.*, electric service is out for over three days.)

[11] We clarify that for these customer-focused policies, the three-day interval shall commence at the start of the event. As used in 16 NYCRR Part 105, the start of the event is the time when more than 5,000 customers are interrupted within a division for more than 30 minutes or more than 20,000 customers are interrupted companywide for more than 30 minutes. If the event affects less than the customer counts listed, the start time shall be the earlier of the peak level of interruptions or start of utility restoration.

implemented only where the Commission finds fault with a particular utility's restoration activity is also inconsistent with our policy objectives to provide certainty for utilities and customers. In addition, NFG’s suggestion is impractical since our review of utility performance would be well after service has been restored, whereas the consumer protections at issue are intended to apply during and immediately following the outages.

Regarding the time interval over which business-as-usual collection activities and assessment of late payment charges should be suspended, the March 2013 Proposal provides for suspension of those activities for the duration of the outages and for an equivalent period of time after service has been restored. NYC recommends that for outages that are not associated with emergency declarations, we extend the duration of the suspension of these business-as-usual policies to two weeks beyond the duration of the outage. Both the proposal in the March 2013 Notice and NYC’s recommendation would require utilities to track when service was restored to individual customers. To help minimize unwarranted complexity and administrative costs, the time interval under which normal collection activities should be suspended shall commence from the start of the event. Also, to avoid undue complexity and facilitate customer understanding, we shall establish a minimum period of seven calendar days in which normal collection activities and assessment of late payment charges should be suspended for customers experiencing outages of at least three days in duration. Similarly, for outages that are associated with emergency declarations, we establish a minimum period of 14 days in which these consumer protections should be applied.

NYC, supported by UIU, recommends that insofar as the March 2013 Proposal would apply to FEMA declarations for which individual and public assistance is provided, it should also apply to emergency declarations made by the State of New York, irrespective of whether FEMA issued an emergency declaration. We are establishing a two-tiered set of consumer protections as further described in Attachment A: 1) those applicable to affected customers for a minimum of seven calendar days from the start of the event, and 2) those applicable to all residential customers in a region for a minimum of 14 days. The question raised by NYC and UIU applies to only the second category of rare events for which additional protections are to be applicable to all residential customers in a region, including those who did not lose electric service, for a minimum of 14 days. That tier is intended to be responsive to those rare and extraordinary events in which transportation, communication and/or mail service is widely disrupted.

As to the second tier protections, we agree that the utility response in certain emergencies must be made in light of specific facts and circumstances. Application of the second tier protections requires some flexibility. We confirm that this second tier shall be triggered by an Order of the Commission in consideration of a number of factors which may include a declaration by FEMA that a region is eligible for individual and public assistance, or an equivalent declaration made by the State of New York, the number of customers who have experienced prolonged electricity outages as a result of the extraordinary event, and the regions of the utility service territory effected. As explained further below, we emphasize that this is a minimum statewide policy that may be applicable in additional circumstances on a case-by-case basis.

The Joint Utilities stated that bill credits and suspension of business-as-usual credit and collection activities should be limited to customers that utilities reasonably believe, or can confirm, experienced a prolonged outage, and to customers that contact the utilities who can credibly demonstrate that they have experienced a prolonged outage due to the storm or emergency event. We agree in part.

The purpose of our customer credit policy is to avoid the imposition of charges to customers who did not receive service for a prolonged period. Therefore, credits should only be provided to customers the utility knows or reasonably believes were out of service for at least three days, or to customers who contact the Company to alert the utility that they suffered an outage of three days or more. During and after Superstorm Sandy, for example, utilities were generally able to determine which geographic areas were out of service, and for how long. That information was used to reasonably determine the applicable customer credits. We expect utilities to use similar approaches to apply our customer credit policy in response to future prolonged outages. We note that utilities are increasingly implementing the tools to automatically determine which customers are out of service and for how long, as part of their outage management systems. However, we are not requiring development of interfaces between outage management and customer service systems at this time.

Regarding collection practices and assessment of late payment charges, as identified in the March 2013 Proposal, these practices should be suspended for all residential customers who experienced an outage of three days or more, and for any residential or non-residential customer who notifies the utility and provides credible support that his/her financial circumstances have changed as a result of the underlying emergency. In addition, as determined by the Commission based on specific facts and circumstances, for certain emergencies a more comprehensive approach is warranted. As demonstrated with

Superstorm Sandy, events warranting emergency declarations can be associated with widespread disruption of, among other things, transportation systems, mail service, access to the Internet from home, and access to banks; all of which impact consumers in the affected area whether or not they experience prolonged outages. A policy to suspend normal collection practices and assessment of late payment charges to customers in designated zones in those circumstances, for a minimum of 14 days from the commencement of the outages, provides utility customers a reasonable amount of time to begin to recover from the emergency.

Applicability to Natural Gas and Steam Utilities

NFG recommends that a uniform statewide policy not be applicable to natural gas service, since gas is intrinsically different from electric service and is not generally subject to prolonged outages. NFG further states that natural gas is far more reliable than electric service due to the fact that underground (and therefore protected) facilities are used to provide natural gas service. We recognize that prolonged outages, particularly of large numbers of customers, are far less frequent for natural gas customers than electric customers. Consumer policies that would be applicable in the event of prolonged natural gas outages will generally be determined on a case-by-case basis.

However, if an extraordinary event occurs, utilities serving natural gas customers in that region may be directed by the Commission to implement the same policies as electric utilities, which include suspension of most collection-related activities and waiver of late payment charges for a minimum of 14 days. To facilitate implementation of these policies in the future, we direct gas utilities to file tariff modifications now, to clarify that the utility "may" impose a late payment charge.

The March 2013 Proposal was not intended to be applicable to steam utilities. As Con Edison is the only New York State utility that provides steam service and prolonged outages of that service are rare, a statewide policy is unnecessary. Parties wishing to propose outage protections for steam customers should therefore address these issues in a Con Edison steam rate case.

Other Recommendations Regarding Credits and Suspensions

Utilities question how quickly they could realistically reflect customer credits on customer bills. The March 2013 Proposal states that, where customer credits for prolonged outages are applicable, they should be applied to customer bills within 60 days of the outage. NFG points out, utilities are, and should be, focused on both short and long term restoration and assisting customers at the time of these outages. The Joint Utilities express concern that this time interval is too short in view of the administrative complexity of issuing credits, and stated that 75 days is a more appropriate interval. The 75-day interval suggested by the Joint Utilities is reasonable and is adopted. As part of their communications to customers after service is restored, utilities are expected to develop, in consultation with Staff, communications to customers which explain (by including bill inserts, posting information on their respective web sites and issuing corresponding press releases) which customers will be receiving credits and when the credits will appear on customer bills.

The Joint Utilities also state that if the Commission does establish a policy for customer credits and suspension of credit and collection activities, it should also establish a mechanism for recovering the associated credits and suspension-related costs. They argue that such costs would be prudently incurred and should be recovered. In opposition, NYC argues that any cost recovery mechanism related to this policy would obviate the policy, since the purpose is to provide relief to customers impacted by prolonged outages. The recovery of incremental costs associated with new Commission rules and policies is generally governed by utility rate plans. To the extent that our new policies increase utility costs, utilities may seek recovery to the extent permitted by their rate plans or petition for deferral subject to our standards.

Recovery of Customer Credits and Collection Activities and Lost Delivery Revenues

The March 2013 Proposal invited comment on a proposal under which RDMs would exclude the revenue impact of the credits identified above as well as the volumetric portion of delivery bills that was not collected from customers who experienced prolonged outages. It also sought comment on an alternative proposal under which utilities would continue to be permitted to recover those credits and lost revenues, except where the Commission finds fault with a utility’s restoration activities.

Joint Utilities assert that a policy that excludes, or potentially excludes, the impact of customer credits and lost volumetric delivery revenue from RDMs, is unnecessary since the Legislature and the Commission have already provided ample financial incentives to utilities to promptly restore service, citing recent changes to the Public Service Law (PSL), and the utility emergency performance metrics proceeding, Case 13-E-0140.[12]

The Joint Utilities argue that modifying RDMs as stated in the March 2013 Proposal would duplicate the penalties the Commission is already authorized to impose. PSL Section 25-a, 2(a), as amended, explicitly provides, however, that "The remedies provided by this subdivision are in addition to any other remedies provided in law." We therefore continue to have discretion to adopt ratemaking practices that achieve our statutory and policy goals, including alignment of utility incentives with our own objectives and the public interest in rapid service restoration.

The Joint Utilities argue that RDMs do not diminish utilities' incentive to promptly restore service to customers and that the proposed policy changes would have a punitive impact. They also argue that excluding lost revenues from utility RDMs would increase utility risk profiles and should therefore be considered in utility-specific rate cases.

RDMs are based on sales forecasts and designed to ensure the company collects no more or less revenue than the Commission approved in the rate case regardless of sales levels. Each utility has slight variations but all Electric RDMs use a total class revenue approach. That is, class specific annual and monthly revenue targets are determined based on the total allowed revenue requirement and the forecasted sales for each service class subject to the RDM. Each month, the utility reconciles by service class, the difference between the actual revenue and the allowed revenue target. On a periodic basis (e.g., six months or twelve months), the cumulative difference is charged or credited to customers by service class, during a

[12] Case 13-E-0140, Proceeding on Motion of the Commission to Consider Utility Emergency Performance Metrics.

subsequent period (which varies by utility). The amount to be charged or credited to customers in each service class is determined by dividing the cumulative difference by the estimated total kWh sales for that service class during the collection/refund period.

RDMs allow utilities to recover lost revenues due to outage-related customer credits and the volumetrically determined delivery revenues that were not billed due to prolonged outages. Customers in each service classification, including customers who experienced the outages, now reimburse the utility for outage-related delivery bill reductions. Before RDMs were implemented, utilities were not reimbursed for prolonged outage related credits and lost revenues.

Our interest in encouraging prompt restoration and providing a credit of a portion of the fixed customer charge to customers who experienced prolonged outages would be undermined if we subsequently allowed recovery of such lost revenues through the RDM. We find it would be unreasonable to require all customers, including those who experienced prolonged outages, to fund the customer credits associated with prolonged outages. Accordingly, we direct that following future prolonged outages electric utility RDM targets be adjusted, at the next true-up period, to exclude customer credits associated with the events.

Regarding the lost volumetric delivery revenue associated with prolonged outages, we confirm that our current practice of not adjusting RDMs for such revenue losses is reasonable and requires no modification. We will continue to explore how this revenue recovery policy may be integrated with performance metrics we are developing regarding utility performance in emergencies[13] and may establish a formal linkage in the future.

Our new policy concerning the recovery of credits and lost volumetric delivery revenue is consistent with our objective to provide utilities strong, unambiguous incentives for rapid restoration of service. It also reasonably balances our interest in ensuring that, where practical, utility customers do not pay for service not received.

Calculation of RDM Adjustments

The March 2013 Notice invited parties to submit comments on how the amount of lost revenue for outages should be calculated. NYC suggests using average delivery revenue information for the billing period(s) in which outages occurred to calculate lost delivery revenue. It further asserts that quantification of the credit given for reduced customer changes should be readily accessible or derivable from the utility's billing system. The Joint Utilities assert that there are substantial administrative difficulties associated with forecasting lost volumes and apportioning those lost revenues by service classification. Our decision to adjust RDMs only for bill credits associated with prolonged outages, simplifies the calculation of the necessary RDM adjustments. An estimate of lost revenue associated with customer charge credits should be available, or readily calculated, from the utility's billing system. Alternatively, it should be calculated, for each service classification, as the daily fixed charge times the number of lost customer-days as a result of prolonged outages.

[13] Case 13-E-0140, Proceeding on Motion of the Commission to Consider Utility Emergency Performance Metrics.

The Commission orders:

1. All major electric and gas utilities are directed to file on not less than 30 days notice to become effective January 15, 2014, tariff amendments necessary to implement the terms of the new Statewide Policies on Customer Outage Credits and Other Consumer Protections Relating to Prolonged Outages as set forth in this Order.

2. The requirement of Public Service Law Section 66(12) and 16 NYCRR 720-8.1 regarding newspaper publication of the filings directed in Clause 1 is waived.

3. The Secretary may extend the deadlines set forth in this Order upon good cause shown, provided the request for such extension is in writing and filed on a timely basis, which should be on at least one day’s notice.

4. This proceeding is continued.

By the Commission,

KATHLEEN H. BURGESS
Secretary

CONSUMER POLICIES RELATING TO PROLONGED OUTAGES IN WHICH THE 16 NYCRR PART 105 REGULATIONS GOVERNING UTILITY OUTAGE PREPARATION AND SYSTEM RESTORATION PERFORMANCE REVIEWS APPLY

I. Outages exceeding three days

A. For any event resulting from an emergency in which electric customers are out of service for a period exceeding three days, utilities will credit customer charges incurred during the period of the outage.

B. Credits will be applied automatically for any customer the utility knows or reasonably believes was out of service for a period exceeding three days, and upon request from any customer that contacts the company and credibly claims they experienced an outage of such duration.

C. The credit will be calculated on a proportional basis (*e.g.*, customers out of service for six days would receive a credit in the amount of 6/30ths of the customer charge for that service classification) and applied to customer bills within 75 days of the outage.

D. For customers experiencing outages of at least three days in duration, all collection-related activities, including termination of service for non-payment and assessments of late payment charges, with the exception of issuance of service termination notices and assessment of security deposits, are suspended for a minimum of 7 calendar days from the beginning of the outage.

II. Outages exceeding three days and requiring additional protections as determined by the Commission

A. For events, as determined by the Commission, utilities will take the actions listed below, both for all residential customers located in the designated area, and for any residential or non-residential customer who notifies the utility and provides evidence that his/her financial circumstances have changed as a result of the event.

B. All collection-related activities including terminations of service for non-payment and assessment of late payment charges, with the exception of issuance of service termination notices and assessment of security deposits, will be suspended for at least 14 days.

C. Electric utility RDM targets will be adjusted, at the next true-up period, so that the lost revenue from customer credits for customers who were out of service more than three days is excluded from the RDM targets.