

BEFORE THE
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of

Case 08-E-0539

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

Electric Rates

September 8, 2008

Prepared Testimony of

JOHN J. DOWLING, P.E.
Senior Associate
Luthin Associates
15 Walling Place
Avon-By-The-Sea, New Jersey 07717

On behalf of

Consumer Power Advocates.

1 **Q. Please state your name and business address**

2 **A.** My name is John J. Dowling, and my business address is 15 Walling
3 Place, Avon-By-The-Sea, New Jersey 07717.

4

5 **Q. What is your educational background and experience?**

6 **A.** I received a Bachelor of Engineering degree in Mechanical Engineering
7 from Polytechnic University, then known as the Polytechnic Institute of

Testimony of John J. Dowling, P.E.

1 Brooklyn, in 1970. Upon graduation, I accepted employment with the New
2 York State Department of Public Service. My responsibilities have included
3 all engineering analyses for major rate cases, as well as review of operating
4 practices and construction programs

5

6 **Q. Have you previously testified before the New York State Public**
7 **Service Commission?**

8 **A.** Yes. I have presented testimony on behalf of Consumer Power Advocates
9 and other Parties in a variety of proceedings, including Con Edison rate Cases
10 03-G-1371, 03-S-1672, 04-E-0452, 07-E-0523, and 07-S-1315. As a
11 Department of Public Service employee, I have testified in numerous cases
12 before this Commission, notably Case 94-E-0994, Con Edison electric rates.

13

14 **Q. What is the purpose this your testimony?**

15 **A.** My purpose is to discuss the extension of Mandatory Hourly Pricing to
16 customers whose monthly demands are less than use less than 1500 kW, to
17 describe billing changes which will provide important cost information to
18 customers and enhance Retail Access market efficiency, and to propose a
19 tariff change applicable to dormitories operated by academic institutions.

20 **Mandatory Hourly Pricing**

21

22 **Q. Do you support the extension of Mandatory Hourly Pricing (MHP) to**
23 **all full service customers whose peak monthly demand exceeds 500kW?**

Testimony of John J. Dowling, P.E.

1 A. Yes, but it is important that this change be accomplished in an orderly
2 manner that protects the interests of consumers. The effect of this change may
3 be quite significant, and difficult or impossible to estimate from the
4 information currently included on customer bills. As was recognized twice
5 during the ongoing implementation of demand billing of steam service, it is
6 important to allow customers sufficient notice and to provide actual cost
7 information in order to achieve the public policy goals of this change.

8

9 **Q. What are the public policy goals of MHP?**

10 A. The goal is to better align customer bills with the cost imposed on the
11 system. It is believed that, by more accurately imposing the true cost of
12 providing service, in this case the true cost of providing service on an hour by
13 hour basis, customers will make rational decisions to maximize their welfare
14 by reducing use during high cost periods if possible. This reduction of use
15 may occur by shifting loads to less costly hours, reducing loads by investing
16 in energy efficiency measures, or by simply forgoing energy use during costly
17 period altogether. In cases where conservation or load shifting measures are
18 impossible, customers may choose to continue costly use or forgo that use,
19 based on their own judgment of the value of that use. Regardless of the steps
20 taken- or not taken- by customers, decisions based on correct prices maximize
21 welfare. Nevertheless, it is generally believed that these decisions will also

Testimony of John J. Dowling, P.E.

1 result in a large and permanent increase in energy efficiency and peak load
2 reduction investments by customers.

3

4 **Q. Is it your experience that customers respond to higher prices by**
5 **investing in conservation measures?**

6 A. Yes. Our members have invested significantly in such measures as the
7 price of energy has risen. Since the inauguration of the NYISO wholesale
8 energy markets, the price of energy has increase from about 6 cents/kWh to
9 more than 12 cents. Our members make significant investments, including
10 investments supported by NYSERDA programs, to defray these costs.

11

12 **Q. If your members have already invested in efficiency, why are you**
13 **concerned about the implementation of MHP?**

14 A. Our members have invested and continue to invest in the optimum amount
15 of energy efficiency measures, as determined by an economic analysis the cost
16 of those measures at the current rates. If the rate structure is changed
17 dramatically, as is proposed here, those measures are no longer optimum with
18 respect to the new costs. Because energy efficiency measures for the next
19 several years are already under consideration or being planned, it is important
20 that planners have information about the effect of this new and somewhat
21 novel approach to retail billing for these classes of customers.

1

2 **Q. What has been your experience of MHP with regard to large**
3 **customers?**

4 **A.** The initial implementation of MHP was confusing to large customers, and
5 this confusion was compounded by errors and omissions in posting hourly
6 prices. The effective MHP price is derived by an obscure calculation
7 requiring the NYISO posted hourly day-ahead energy price, NYISO ICAP
8 and ancillary services prices, and transmission losses. Without the complete
9 and accurate posting of the MHP data, it is impossible for customers to verify
10 the accuracy of their bills. Just as important, it is impossible for consumers to
11 respond appropriately to prices. Our experience was that it was nearly a year
12 before large customers were able to understand and rely on Con Edison's
13 posted data. As early as April 21, 2006, Luthin Associates identified
14 numerous issues of price notification, transparency and bill verification related
15 to the initial implementation of MHP for large customers. As of April 18,
16 2007, seventeen of those issues remained unresolved, most notably the
17 tolerance band for data errors, and the collection of NYISO billing
18 adjustments through the MSC. One of the most significant issues, the
19 misallocation of NYISO re-billed charges, remained unresolved until the
20 Commission's Order in the last rate case. . While these issues have been
21 resolved, it is unacceptable that their resolution took a full year or more. One

Testimony of John J. Dowling, P.E.

1 of the most significant issues, the misallocation of NYISO re-billed charges,
2 remained unresolved until the Commission's Order in the last rate case. We
3 expect the transition to MHP to be equally difficult for smaller consumers,
4 most of whom lack the resources that larger customers are able to devote to
5 these issues. Con Edison should demonstrate its ability to bill this new, much
6 more numerous group of customers accurately before MHP rates are made
7 effective.

8

9 **Q. Why cannot customers avoid the impact of MHP by taking supply**
10 **service from an ESCO?**

11 **A.** Supply contracts with ESCOs are negotiated agreements. In negotiation,
12 any party's Best Alternative To a Negotiated Agreement (BATNA),
13 effectively limits the amount of value to be traded. By changing the
14 customer's BATNA, the Retail Access customer can expect different
15 opportunities. This particularly true in this case, where the customer's
16 BATNA is a published tariff rate. In fact, because of the large volume of
17 historic data available through the NYISO, the uncertainty regarding the
18 addition of ancillary costs to the simple energy price, and the difficulty of
19 analyzing that, the ESCO may have a better quantification of the customer's
20 BATNA than the customer's own energy managers. This is a problem that is
21 endemic to the Retail Access market. It limits the efficiency of the market,

Testimony of John J. Dowling, P.E.

1 which depends upon reliable information, and it threatens to erode consumer
2 support for the entire Retail Access program. That makes it more important in
3 this particular case to insure that customers have the best possible opportunity
4 to understand the cost implications of MHP.

5

6 **Q. How can the Company insure that customers have this information?**

7 **A.** As in the case of demand billing for steam service, the Company should
8 shadow bill these customers for a period of one year. The shadow bill would
9 include all the price and cost information as would be included on an actual
10 MHP bill, but the customer's actual bill would be based on the current rate
11 form. At the end of the first year, customers will have the information
12 necessary to make an informed judgment about their service needs.

13

14 **Alternative supply cost data**

15 **Q. Is not information about the cost of alternatives, including the full**
16 **service alternative, essential to the customer's success at negotiating**
17 **competitive alternatives to utility provided supply?**

18 **A.** Yes. A customer who can only guess at the cost of various supply
19 proposals can never be certain that he or she has chosen the least cost
20 alternative. Unless that certainty can be provided, support for Retail Access
21 will surely erode.

1 **Q. What can Con Edison do to provide some certainty about alternate**
2 **costs?**

3 **A.** One simple measure is for Con Edison to provide the cost of full service on
4 each bill, including bills to customers who buy competitive supply. This is
5 simple measure which will provide important information for negotiating
6 contracts and for analyzing the results if negotiated contracts.

7

8 **Q. Is this approach used elsewhere?**

9 **A.** Yes. This approach has been adopted by New Jersey utilities, which not
10 only provide the supply cost at tariff rates on all bills, they highlight and
11 identify that item as the amount to compare against competitive supply
12 options. To the extent ESCOs promise discounts from full service rates, that
13 information would provide an important reference to assure customers that
14 promised savings are delivered.

15

16 **Q. Cannot each customer develop that information independently from**
17 **published tariffs?**

18 **A.** Theoretically, yes, but it is no easy task. Luthin Associates has developed
19 proprietary billing engines for most Con Edison rate schedules, but these
20 reflect the complexities of the Con Edison tariffs. Each monthly bill
21 calculation includes monthly consumption, monthly demand, off peak

Testimony of John J. Dowling, P.E.

1 consumption, off peak demand, the beginning and ending dates, local tax
2 rates, MAC, MSC, MAC adjustment, MSC adjustment, at least 14 different
3 tariff rates all of which must be compiled and prorated for each month in
4 which service is received. With the extension of MHP to many more
5 customers, these computations must be done for each of the 720 or so hours
6 per month. It is complex enough that I believe Luthin Associates is one of
7 the few organizations outside of Con Edison that can compute an electric bill
8 from the Con Edison tariff. With the development of MHP, the information
9 processing requirements increase dramatically.

10

11 **Q. If you are able to calculate these costs, why should Con Edison**
12 **provide the same information?**

13 **A.** Luthin Associates simply does not have the capacity to re-price every bill
14 at the full service rates, even for our small group of own clients. It is simply
15 more efficient and cost effective to have Con Edison provide that information
16 to the entire market.

17

18 **Q. Should it not be the responsibility of customers to determine the costs**
19 **of their alternatives?**

20 **A.** Perhaps, but the fact remains that customers, for the most part, do not have
21 the capability to compute a full service bill. This is partly due the difficulty of

Testimony of John J. Dowling, P.E.

1 access by customers to billing data, which is currently remains an open issue
2 in Con Edison's last electric rate case, and partly due to the complexity of the
3 Con Edison tariff, which in turn is the result of the policies adopted by the
4 Commission over the years to address complex issues of cost, equity and risk.
5 These policies include various revenue reconciliations, which were developed
6 either to align incentives with public policy, or to unbundled rates to more
7 closely track costs or to minimize financial risk to Con Edison. If customers
8 find it impossible to evaluate competitive energy offers because the
9 complexity of the Con Edison tariff makes those offers impossible to evaluate
10 against full service supply, they will correctly infer that the game is rigged
11 against consumers. That is surely not the Commission's - or Con Edison's -
12 intention, but it is the result.

13

14 **Q. Are you concerned that this reform will be difficult to implement?**

15 **A.** The experience of New Jersey says otherwise. Moreover, if Retail Access
16 as it is now structured is to be a success, it must be perceived by the public to
17 be fair, and it must provide a reasonable opportunity for consumers to
18 negotiate favorable supply arrangements. Adequate information regarding
19 alternatives is essential to that negotiation. This issue transcends
20 considerations of the difficulty of implementation.

21

1 **Tariff changes for dormitories**

2 **Q. What tariff changes do you propose?**

3 A. Currently, student dormitories containing individually metered apartments
4 with bathrooms and kitchens in each unit are required to be billed separately
5 for each apartment. CPA proposes a modification to the applicability rule to
6 allow all dormitories, including those with apartments, operated by academic
7 institutions as temporary housing for resident students to receive SC8-
8 residential redistribution service. These buildings should be eligible to be
9 served and billed as a single account, to allow the institution the benefit of the
10 more favorable rate structure of SC 8 service and to recognize Con Edison's
11 interest in assigning payment responsibility to a permanent customer, such as
12 a university.

13

14 **Q. Why is this change necessary?**

15 A. Conversion of these dormitories to master metered single accounts allows
16 for:

17

- 18 • reduced energy costs
- 19 • monitoring of building-wide coincident demand
- 20 • reduced administrative overhead for both the University and Con
21 Edison

Testimony of John J. Dowling, P.E.

- 1 • future connection of at least one of these buildings to the University's
2 combined heat and power (CHP) plant. This facility is currently being
3 upgraded, and will produce substantially less greenhouse gas
4 emissions than buildings will receive Con Edison service
- 5 • reduced administrative burden on both the University and Con Edison,
6 • participation in the NYISO Demand Response programs.

7

8 **Q. Will this change thwart the Commission's policy to encourage**
9 **conservation by passing costs to end users?**

10 **A.** On the contrary, this will support the Commission's efficiency efforts.
11 The policy of assigning costs to residents in order to provide efficiency
12 incentives is a good one, but it does not apply in this case. Students are not
13 billed for individual energy usage; therefore, individual metering is not an
14 incentive to conserve. Single metered service will allow NYU to participate
15 in NYISO demand response programs, and to provide low cost, low carbon
16 energy to these buildings from NYU's combined heat and power (CHP)
17 facility.

18 **Q. Could the University resolve the incentive and cost issues by requiring**
19 **students to establish Con Edison accounts?**

20 **A.** No. It is not reasonable to expect the University or any other academic
21 institution to require student to establish utility accounts, or to pass those costs

Testimony of John J. Dowling, P.E.

1 on to students. In order for this particular tariff to have the desired effect of
2 promoting efficiency by assigning costs directly to end-users, it would be
3 necessary, but not sufficient, for students to take responsibility for their own
4 electricity costs. Even if NYU were to require students to establish such
5 accounts, it would impose on Con Edison would no longer enjoy the benefits
6 of its commercial relationships with NYU and other stable institutions, but
7 would bear the burden of annually establishing and closing numerous
8 accounts with transient residents. None of this would in actual practice
9 increase the incentives for energy efficiency.

10

11 **Q. What are the characteristics of the affected buildings operated by**
12 **NYU?**

13 **A.** These three dormitories contain 774 apartments which were previously
14 leased to permanent residents. As is common in New York City, these
15 apartments were separately metered to relieve the previous landlords from the
16 responsibility of providing electric service. Con Edison has interpreted its
17 tariff to require those buildings which have metered apartments to be
18 ineligible for SC8 service. In typical apartment buildings, an account is
19 established with a tenant in each apartment. In the case of buildings operated
20 as dormitories, it is impractical to establish such accounts.

21

Testimony of John J. Dowling, P.E.

- 1 ○ These residents typically occupy the dormitory for less than a full year,
2 and some months of the year the building is largely vacant.
- 3 ○ These residents often share apartments with other students as assigned
4 by the institution. The establishment of a utility account shared by
5 resident students would require a financial agreement between these
6 individuals, an unreasonable expectation.
- 7 ○ The nearly universal expectation of students and their families is that
8 the university will commit itself to the total cost of tuition and housing
9 prior to the beginning of the academic year. Assigning some of those
10 costs, and the related financial responsibility, to students and their
11 families may be possible, but it is objectionable for many reasons.

12

13 It contradicts the expectations of students to the extent that the ordinary
14 practice is generally for the institution to take that responsibility. This issue
15 applies only to limited number of buildings at the University, and perhaps a
16 few others elsewhere

17

18 **Q. What are some of the energy conservation efforts instituted by the**
19 **University that confirm its commitment to energy conservation?**

20 **A.** The University is one of ten of the largest higher education institutions in
21 New York City, who have joined the Mayor's challenge and committed to

Testimony of John J. Dowling, P.E.

- 1 reduce their carbon footprint by 30% by 2017. It has taken steps to implement
2 energy conservation measures for virtually all uses of electricity in these dorm
3 rooms: lighting, HVAC, computers, and appliances. Some of these measures
4 include:
- 5 ○ The University has replaced over 13,000 incandescent bulbs with
6 CFLs in overhead fixtures in dorm rooms in the past 12 months.
 - 7 ○ The University annually distributes over 12,000 Compact
8 Fluorescent Lightbulbs (CFLs) to students for use in their own
9 lamps (bedside, desk, floor lamps). The bulbs are given away free
10 to students in an effort to reduce electric consumption. This results
11 in a savings of 672,000 kWh/year.
 - 12 ○ The University conducts lighting audits in all dorms, and as a
13 result of those audits, performs efficiency upgrades as part of
14 NYSERDA and Con Edison's Kill-A Watt Program.
 - 15 ○ The University is installing occupancy sensors and a wireless
16 network system to control individual room HVAC units in two
17 large dorms. The University will apply for NYSERDA funding for
18 this program, which it expects to expand to other dorms in the
19 future.
 - 20 ○ The University has installed lighting occupancy sensors in all
21 maintenance/facilities areas in dorms.

Testimony of John J. Dowling, P.E.

- 1 ○ The University educates students to set their computers to
- 2 "hibernate" or turn off when not in use.
- 3 ○ The University reviews all installations in dorm rooms
- 4 (refrigerators, etc.) for energy efficiency.
- 5 ○ The University is expanding and upgrading its 11 MW combined
- 6 heat and power (CHP) plant which will reduce overall greenhouse
- 7 gas emissions substantially.
- 8 ○ The University has purchased wind renewable energy credits for
- 9 100% of its Con Edison electric consumption since 2006.
- 10 ○ The University participates in the NYISO Demand Response
- 11 Program – “Operation Save New York”.

12

13 Taken together, these efforts far exceed the measures one would expect from
14 individual residents or from the Energy Code. If the bill responsibility were
15 assigned to individuals, the University’s economic interest in providing these
16 measures would be reduced or eliminated. It is uncertain whether all or any of
17 the individuals would chose to replace incandescent lights with CFLs, or
18 whether advanced technology such as remotely-controlled, networked HVAC
19 control could be implemented.

20

21 **Q. What is the economic impact of the current method of billing?**

Testimony of John J. Dowling, P.E.

1 **A.** The University must pay the sum of all the bills at the SC2 rate which is
2 greater than a single SC8 bill. Also, NYU must bear the additional burden of
3 managing numerous accounts for what is essentially one service. The
4 difficulty of managing multiple accounts may not be easily dismissed: that is
5 currently an unresolved issue in Case 07-E-0523, Con Edison's last electric
6 rate case.

7
8 By our estimate, shown in Exhibit A (jjd-1) NYU pays about \$279,000 per
9 year more for delivery service than it would if SC8 rates were applied to the
10 full load. These additional costs are a drain on the resources of the University,
11 which has a record of leadership in energy efficiency issues. This includes the
12 execution of what is believed to be the largest contract for renewable energy
13 credits in Con Edison's service territory.

14

15 **Q. Is SC9 service an appropriate solution?**

16 **A.** No. SC9 is a general service classification. Dormitories are residences,
17 and their load characteristics match the characteristics of SC8 residential
18 service. The principle that rates should be based on costs demands that
19 dormitories be billed at the SC8 rate.

20

21 **Q. Are there any other benefits for Con Edison related to this proposal?**

Testimony of John J. Dowling, P.E.

1 A. Yes. Con Edison will avoid the administrative burden of billing the
2 University for 774 accounts every month, and will retain large customer with
3 a proven record of conservation and efficiency efforts.

4

5 **Q. Does this complete your pre-filed testimony?**

6 A. Yes, it does.

7

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