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February 29, 2012

Hon. Jaclyn A. Brillling  
Secretary  
State of New York  
Public Service Commission  
Three Empire State Plaza  
Albany, New York 12223

**RE: Case 11-M-0542, Excelsior Jobs Program**

Dear Secretary Brillling:

Consolidated Edison Company of New York, Inc. (“Con Edison” or the “Company”) is filing with the New York State Public Service Commission (the “Commission”) amendments to its Schedule for Electricity, PSC No. 10 – Electricity, applicable to its customers in the City of New York and the County of Westchester.

The tariff leaves, which are identified below, are issued to become effective on June 1, 2012.

<u>Leaf No.</u>	<u>Revision No.</u>
205	1
253	2
319	1
349	2
351	2
446	2
450	2
458	2
459.1	0
459.2	0
459.3	0
459.4	0

**Reason for Filing**

On March 31, 2011, Section 66(12-d) of the Public Service Law was amended pursuant to the Excelsior Jobs Program (“EJP”) Act of 2011 (L. 2011, c. 61). The EJP Act permits qualifying businesses to receive tax credits for a period of up to ten years. Customers who qualify for EJP tax credits may also receive a special utility delivery rate at the utility’s incremental cost of providing service (PSL§66 (12-d)).

By its Notice to File Proposed Tariff Provisions, issued December 9, 2011 (the “Notice”) in Case 11-M-0542, the Commission directed the Company to file tariff amendments to conform to the requirements established by the EJP Act.<sup>1</sup> The Notice directed that the tariff amendments bear an effective date of June 1, 2012.<sup>2</sup> The Notice specified that utilities that do not have an existing Empire Zone rate, but that submitted marginal cost-of-service studies in their last major rate cases, should file proposed Excelsior Jobs tariff delivery rates reflecting the applicable marginal costs contained in those studies adjusted for any modifications to those studies that were adopted by the Commission.

The Company does not have an existing Empire Zone rate. Because the Company’s cost-of-service study submitted in its last electric rate case, Case 09-E-0428, demonstrates that marginal costs exceed average electric delivery rates, the Company is not proposing to discount its delivery rates for Excelsior Jobs customers at this time. If the relationship between delivery rates and marginal costs changes over time such that then current electric delivery rates exceed marginal costs, the Company will, as appropriate, file to amend the Excelsior Jobs percentage discount applicable to delivery charges. In order to recognize that potential circumstance, the Company is proposing tariff amendments that establish terms of service for customers eligible for EJP delivery rate reductions, with the percentage delivery rate reduction initially set at zero.

### **Proposed Tariff Changes**

The Company proposes to add new Special Provision H to Service Classification No. (“SC”) 9 – General – Large. SC 9 - Special Provision H describes: (1) eligibility for reductions in electric delivery charges by customers who qualify for EJP tax credits, including the initial and annual certifications that must be provided to the Company;<sup>3</sup> (2) reductions on electric delivery charges applicable to New Customers and to Existing Customers, as defined under the Special Provision;<sup>4</sup> and (3) restrictions on eligibility under the Special Provision.<sup>5</sup>

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<sup>1</sup> The Notice directed that tariff changes be filed by February 14, 2012. That date was extended to February 29, 2012, pursuant to the Secretary’s letter of February 14, 2012.

<sup>2</sup> The Company is separately filing changes to its Schedule for Gas Service, P.S.C. No. 9 – Gas.

<sup>3</sup> To receive service under SC 9 – Special Provision H, a customer will be required to submit a copy of its Certificate of Eligibility issued by Empire State Development (“ESD”) within sixty days of receiving the certificate. Thereafter, each year, for up to ten years, the customer will be eligible for the reductions in delivery charges specified under SC 9 – Special Provision H provided the customer submits to the Company, within 90 days of receipt, a copy of its Certificate of Tax Credit issued by ESD for the prior tax year or ESD certifies to the Company that a Certificate of Tax Credit was issued.

<sup>4</sup> The Company has defined “New Customer” using the criteria in expired economic development Riders of P.S.C. No. 9 – Electricity: Rider L – Rates Available Under Economic Development Zones Act and Rider I – Area Development Rate. The only difference is that the Company omitted from the definition of “New Customer” an applicant who obtained a business from a predecessor customer in bankruptcy in a liquidation of assets sale provided the predecessor customer was eligible for service under that Rider. This criterion is not needed for the Excelsior Jobs Program, because each customer must apply to ESD for EJP benefits based on its own merits.

The Company has defined “Existing Customer” as a customer other than a New Customer. This differs from the “existing customer” criterion in expired Riders L and I, which permitted an existing customer to receive benefits only if there was a material increase in electric use (i.e., an increase of at least 25 percent in three consecutive months) resulting from the addition of equipment or expansion of the customer’s facility or operations. The Company has elected not to impose the “material increase” criterion, so as not to promote customers’ increased use of electricity.

<sup>5</sup> The Company has mirrored the restrictions applicable under Rider J – Business Incentive Rate, except for the Rider J prohibition against receipt of service under the Rider if 25 percent or more of the square footage is used for residential purposes. Because the EJP provision is in SC 9, which has a restriction on the percentage of square footage that can be used by tenants,

As described above, there will be no reduction in current electric delivery rates for New and Existing Customers who commence service under Special Provision H on or after June 1, 2012. Should the rate reduction percentage be increased from zero in the future, that percentage will be applied to Demand Delivery Charges and Energy Delivery Charges in Rates I, II, and III and to the Customer Charge, Contract Demand Charge, and As-used Daily Demand Delivery Charges in Rates IV and V, prospectively. Existing Customers billed under Rate I, II, or III will receive rate reductions if and to the extent their kW and kWh usage exceeds established baselines. Existing Customers billed under Rate IV or V will receive rate reductions if and to the extent their contract demand is above the established baseline. A baseline is not applicable to New Customers.

To conform to changes proposed by new Special Provision H of SC 9, the Company is also making the following tariff changes:

- Rider J – Business Incentive Rate (Leaf 205) was amended to indicate that service is not available under Rider J to customers who receive service under SC 9 - Special Provision H. Rider J is not available to Special Provision H customers, because they would otherwise receive two rate reductions on the same delivery rates.
- Rider R - Net Metering for Customer-Generators (Leaf 253) was amended to indicate that service under Rider R is not available to customers who receive service under SC 9 – Special Provision H. Rider R customers pay “net” kilowatthour charges for delivery and supply and are, thus, subsidized by other ratepayers. It would not be appropriate to give them rate reductions on whatever charges they do pay.
- Rider Y – High Load Density Service (Leaf 319) was amended to indicate that applicants and customers eligible for service under Rider Y are not eligible for service under SC 9 - Special Provision H. This is consistent with the current restriction that customers served under Rider Y may not be served under Rider J.
- General Rule 26.2 - Revenue Decoupling Mechanism (“RDM”) Adjustment was revised to indicate that it is not applicable to load served under SC 9 – Special Provision H (Leaf 349), and SC 9 allowed pure base revenue under the RDM will be decreased/increased for load transfers to/from EJP service as appropriate (Leaf 351). These changes are consistent with the changes made regarding SC 9 – Special Provision G (Recharge New York) in Case 11-E-0176.
- SC 9 was revised to reflect the following: (a) the Maximum Rate is not applicable to customers served under Special Provision H (Leaf 446), because the Company is in the process of phasing out the SC 9 Maximum Rate; (b) service may not be taken under Special Provision D in conjunction with Special Provision H (Leaf 458), because applications are no longer accepted for service under Special Provision D; and (c) Rate III is not available unless a Special Provision H customer takes service under Rate III for its entire requirements (Leaf 450). That is, a customer who receives service under the PASNY or EDDS Rate Schedules for partial requirements pursuant to General Rule 11 may not take service under SC 9 Rate III for Special Provision H rate

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customers with 25 percent or more residential square footage are automatically ineligible for service under SC 9 and, thus, Special Provision H. (Note: SC 9 allows redistribution to residential tenants occupying more than 10 percent of the total square footage only during the period between construction or substantial renovation of a building’s wiring and the installation of submetering authorized under Rider G.)

reductions, because the billing determinants for SC 9 Rate III delivery rates differ from those under Rate I of the EDDS and PASNY rate schedules.

**Conclusion and Notice**

As directed by the Notice, the Company is filing its tariff changes to take effect on June 1, 2012. The Company will publish notice of the proposed changes to this tariff and to its gas tariff (which is being separately filed with the Commission) in accordance with the Commission's regulations regarding newspaper publication.

Sincerely,

/s/ Christine Colletti  
Director  
Rate Engineering Department