

nyecc

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BOARD MEETING MINUTES

Wednesday, September 15th, 2021 – 8:30 AM
VIDEO CONFERENCE CALL

Attendees: Andy Anderson, Daniel Avery, David F. Bomke, John Bowen, Michael Byrnes, Henry Celestino, George Diamantopoulos (*Counsel*), Daniel Egan, John Ferrante, Brian Flaherty, Jonathan Flaherty, Michael Forese, Avi Itzikowitz, Jason McCalla, Adin Meir, Lauren Brust Moss, Steve Mosto, John Pierce, Luis Rios, Phil Skalaski, Edward Strauss, Diana Sweeney, Sheila Sweeney and Ben Wallack.

Absent: Dominick Chirico, Matt Duthie, Daniel Palino, Alec Saltikoff, John Soden and Zach Steinberg.

Guests: David Ahrens, David Alonso, Jeannine Cooper, Alex Gulagaci, Jennifer Kearney, Michael Keaveney, Corey Letcher, John Mari, Charlie Marino, Michael Prefi, Michael Reed, Lou Schoen, Larry Skennion, Joe Szabo and Jeff Wall.

CALL TO ORDER Phil Skalaski / Daniel Egan

Phil Skalaski called the September 2021 Board Video Conference Call Meeting to order at 8:33 AM.

APPROVAL OF MINUTES Phil Skalaski / Daniel Egan

Daniel Egan requested review of the September 2021 Board Meeting minutes. The minutes were moved for approval by David Bomke, seconded by Ed Strauss and unanimously approved.

TREASURER REPORT Ed Strauss

The Chase Checking Account balance is \$67,215. The CIT Savings balance is \$386,397.

CO-PRESIDENT REPORT Phil Skalaski / Dan Egan

- Member Check-In

Durst Organization now has around 25% occupancy in its buildings. Some tenants are asking for demand control ventilation, specific build outs, providing more outside air, and other Covid safety measures. Veolia employees are in two to three days per week. They will be required to be vaccinated. Skilled union employees at

many organizations will be difficult to replace if they quit instead of becoming vaccinated. Many NYC tenants want anyone who comes onto their floors to be vaccinated. It is a difficult situation to manage with vaccination and privacy issues.

The costs of location and national Renewable Energy Certificates have increased through the roof through since the end of last year in both the voluntary and mandatory compliance markets. There is a growing supply of GreenE National Wind RECS. Voluntary demand has increased with Amazon and other large companies issuing large RFPs. Previous pricing was around \$1/mwhr which was minimal compared to supply costs, and there was no compliance mechanism for LL97. Now, pricing is near \$5 and peaked near \$7. RXR has purchased many RECS in recent years. Pricing has gone up since the Biden Administration began as more owners want to get on board with national policy and go green. Vornado has purchased Tier 2 RECS from localized power sources covering NYC consumption. Tier 2 is the mix of hydro and renewables from upstate New York. Tishman Speyer has bought locally near California buildings. The NYECC may discuss forming a group of renewable energy purchasers localized in NYC. Issues would include city guidelines, goals and timelines.

- Welcome New Member

The NYECC welcomes the newest principal member, NYU University. David Alonso will be attending meetings and is looking forward to membership and new relationships.

- Gas Ban Bill

The new bill bans natural gas for new buildings for two years from when the bill is passed by NYC Council. The NYECC is working with REBNY to compile talking points. The Durst Organization is looking at residential plans and evaluating what costs would have been with heat pumps and how much cooking gas contributes to the issue. Committee Chair James Gennaro does not like the bill and wants a better bill and wants additional input on renovation issues, exemptions and phase ins based on building sizes before passing the bill. It is not known whether Mr. Gennaro will Chair this Committee next year. Many stakeholders have different opinions with the goal of reasonable modifications.

- Invoice Approvals

Daniel Egan requested review of the August NYECC invoices from EnergyWatch and 3 Point Energy. The invoices were moved for approval by Daniel Egan, seconded by Daniel Avery and unanimously approved.

EXECUTIVE VICE-PRESIDENT REPORT

Lauren Brust Moss

- Steering Committee Report

The Steering Committee met recently to move goals forward and discuss the Gas Ban, Membership and Education Committees, B & C buildings, events, rate cases, decarbonization of the steam system and ConEd costs. The committee will work to create one page summary documents on important topics.

The NYECC wants to review the Con Edison long term plan. The Durst Organization will retain London Economics Institute for the study project at a cost of \$45,000. The NYECC may join the study and share half the cost. REBNY considered joining, but has determined

that the focus of the project should be energy and not real estate. REBNY is expected to help promote and market the study. Information about the study will be sent to the Board and there will be a vote as to whether or not the NYECC joins the study.

EXECUTIVE DIRECTOR REPORT

Diana Sweeney

- NYECC Website

The NYECC is working with a contractor to revamp the website with a new look that will be easier to manage and use as a tool for membership. Phase 1 of the work has started with Board approval. A vote to approve Phase 2 will be brought to the Board at the end of this meeting.

- Hybrid Meeting Format

Before the Delta variant of Covid became widespread, the NYECC considered hybrid in person/remote meetings. The conversation may be delayed another few months as there has been strong participation in remote meetings. Some Board Members desire to have in person meetings by end of 2021. There are many logistics in terms of vaccines and space and technology to work out.

REGULATORY UPDATE

George Diamantopoulos

New York Energy Consumers Council, Board Members' Meeting, Wednesday, September 15, 2021

Presenter: George Diamantopoulos, Esq., Counsel to the NYECC

19-G-0309, 19-G-0319 - National Grid Gas Rate Cases

- 8/12/21 – PSC approved a three-year rate plan (April 1, 2020 - March 2023) for National Grid's downstate gas companies — the Brooklyn Union Gas Company (KEDNY) and KeySpan Gas East Corp. (KEDLI) by adopting and modifying a Joint Proposal ("JP"). Highlights include:
 - Furthering the objectives of the CLCPA, enacted during the cases, and responding to the economic conditions created by the Covid-19 pandemic. Significantly, the PSC ruled that **CLCPA requirements applies to this rate case and all future rate cases**. The goal is to have the utility sell less gas in the future, a clear-cut indication of what will happen at other gas utilities in New York State as CLCPA requirements take effect.
 - Requires prioritizing leak prone pipe removal based upon methane flow rate data, develop an enhanced methane detection program, discontinue natural gas marketing efforts and promotional programs, and provide educational information to customers about alternative heating options and the emission reduction requirements of the CLCPA. Supplemental research was provided on this topic by Mr. Marino.
 - Prioritizes energy efficiency and demand response as part of an effort to avoid construction of capital projects that may increase GHG emissions, with the overall goal of reducing demand for natural gas.

- Requires companies to conduct a study evaluating how their businesses may further evolve to support the CLCPA's emission reduction and renewable energy goals, and requires certain proposed long-term capital projects that would be paid through a surcharge mechanism to be evaluated by an independent consultant against specific criteria, including verification of the need for the project and its GHG emissions potential. The independent consultant findings and recommendations will require review and approval by the PSC.
- No funding for the last phase of the controversial Metropolitan Reliability Infrastructure (MRI) project, a 7-mile natural gas distribution pipeline in North Brooklyn and requires the companies to first meet metrics on demand-reducing initiatives before seeking cost recovery of this and other infrastructure projects, subject to independent consultant review to verify the need and evaluate emissions impacts.
- Manages the companies' revenue requirements, in conjunction with the elimination of the tax reform credit and energy efficiency surcharge, as well the use of credits due back to customers, such that customers will experience no delivery rate increases in the first year. Thereafter, the companies' revenue increases were reduced to only 2 percent for KEDNY and 1.8 percent for KEDLI during the second and third years, respectively.
- On April 30, 2019, KEDNY proposed to increase natural gas delivery rates and charges by approximately \$236.8 million for KEDNY, representing a 19.3% increase in delivery revenues and a 13.6% increase in total revenues. KEDLI, meanwhile, proposed an increase to its annual gas delivery revenues by approximately \$49.4 million, representing a 6% increase in delivery revenues or 4.1% increase in total revenues in the first year.
- A process to facilitate any refunds that may result from the investigation into a bribery and kickback scheme amongst some former employees who allegedly, according to an ongoing federal criminal investigation, steered contracts to certain Long Island-based contractors with whom the company did business.

Energy News

- 8/20/21 – 15-E-0751 – NYECC filed Joint Comments with the MTA regarding the Joint Utilities ("JU") Alternative Proposal to the "Allocated Cost of Service" methodology proposed in a DPS Staff whitepaper regarding the **development of standby and buyback service rates**. The whitepaper, issued in November 2020, identifies a proposed method for the utilities to apply in developing these rates, and recommends that stand alone energy storage systems be exempted from contract demand charges for injections under the buyback service. Salient comments made include the following summaries:

- JU' proposal designed to specifically alter the beneficial effect to high tension customers of the lower local costs allocation under Staff's Whitepaper is discriminatory and not the proper means for designing an objective standby rate structure because it is a methodology designed to instead attain a particular predetermined outcome for a particular service class.
- The sought after objective Decision Tree becomes a Non-Decision Tree whose outcomes are not only not objectively arrived at, but which have been dictated by the predetermined, subjective wishes of the JU by highlighting a singular and inflexible path through the "Decision" Tree that illustrates the steps necessary to effectuate the alternate allocator with no decision allowed to be made on the "Decision" Tree that deviates at all from the predetermined path proposed and previously decided upon by Con Edison.
- JU' attempt to reach a compromise undermines the type of objective analysis as the current exercise requires that has long been sought after by customers.
- Con Edison work papers for the Alternate Allocator Methodology do not abide by Staff's and the Commission's directive that Customer Charges should not change because the monthly Customer Charges, including for the NYPA Service Classes depicted in the Con Edison workpapers, have more than doubled.
- Rules around Contract Demand need to be simple with a customer's individual Contract Demand, for those accounts that opt for the utility to base their contract demand on their past two-year peak history, being updated more frequently, ideally annually.
- JU' do not address exemption for a Buyback Service Contract Demand charge for energy storage systems exporting electricity to the electric grid.
- Bill impacts on other customers for this energy storage systems exemption, need to be transparently provided in order for the PSC to ascertain the appropriate duration for such an exemption.
- 8/24/21 – Five (5) ways NYSERDA can help businesses lower their carbon footprint:
 - Schedule an energy assessment of your business. A certified energy specialist takes a holistic look at your building and helps you develop and implement a custom roadmap to make short and long-term energy savings improvements.
 - Provides clean energy workforce training and development support.
 - Can assist with decisions to upgrade or replace building's heating and cooling technologies to make them more efficient and use less energy.
 - Apply the 3Rs (reduce, reuse and recycle) to day-to-day business practices. Reduce your carbon footprint by purchasing recycled paper, working with vendors committed to sustainable supply practices, purchase refurbished equipment.

- Assist with programs and incentives to make lighting upgrades.
- 8/25/21 – FERC’s (non-binding, general expression of) Policy Statement on Carbon Pricing in Organized Wholesale Electricity Markets clarifying how it will approach filings under the Federal Power Act’s Section 205 to incorporate a state determined carbon price in organized wholesale electricity markets, effective 4/15/21.
 - Carbon pricing for valuing GHG emissions includes state established direct pricing on GHG emissions (e.g., RGGI) and indirect pricing such as through cap-and-trade programs, which limit the quantity of emissions allowed;
 - FERC jurisdiction remains an issue where State statutes seek to reduce GHG emissions and where state determined carbon pricing affects wholesale rates. Facts in each case will determine existence or absence of FERC jurisdiction. Non-binding Policy Statement contains framework for exercising FERC jurisdiction and could be read to be pre-judging its jurisdiction. Expect FERC to exercise jurisdiction in this Section 205 context and expect litigation when someone disagrees.
 - Permitting generating resources to recover through wholesale rates in the RTO/ISO markets the costs associated with a state-determined carbon price is consistent with FERC’s precedent;
- 8/27/21 – Ms. Cooper provided supplemental research on the following: Rep. Carolyn Maloney, Chairwoman of the House Committee on Oversight and Reform is supporting a proposal to cut the number of peaker power plants in NYC in half by 2025 and to zero in 2030 by supporting environmental groups seeking to reduce the impact of air pollution on low income and historically marginalized neighborhoods and by toughening the approval process for new power plants in such areas and by providing tax incentives and grants to help retire such plants. The environmental groups seek to replace 89 fossil-fuel powered peaker turbines with a combination of off-shore wind, battery storage, energy efficiency and solar.
- 9/1/21 – Mr. Marino provided supplemental research on the following two topics: Recommendations due from the interagency working group on the social cost of greenhouse gases (“SC-GHG”), regarding areas of decision-making, budgeting, and procurement by the federal government where SC-GHG estimates should be applied. Interim social cost of carbon (“SCC”), metrics were issued in January that reinstating the working group by Executive Order after it was dismantled by the former administration who lowered the SCC using a discount rate as high as 7 percent compared to the recommended 3 percent level. The SCC, created in 2008, quantifies the long-term economic damage that results from one metric ton increase in carbon dioxide in a year. Metrics from methane and nitrous oxide were established in 2016 under the Obama administration, facilitating a wider SC-GHG metric, which has been used in regulatory benefit-cost analysis for over a decade.
- 9/8/21 – Carbon capture and storage - The Orca plant in Iceland which can suck 4,000 tons of CO2 out of the air every year and inject it into the ground to be mineralized as rock became operational and according to the US EPA equates to emissions from 870 cars.

- The plant constructed by Switzerland's Climeworks and Iceland's Carbfix cost \$10-15M.
- Fans draw air into a collector which has a filter that when filled with CO2 the collector is closed and temperature is raised to release concentrated CO2 which is mixed with water and injected into 1,000 meters underground into basalt rock where it is mineralized.
- Criticism of the technology is that it is too expensive and may take decades to operate at scale.

Con Edison Rate Cases

- 8/20/21 – 19-G-0066 – Con Edison requested an extension to file its implementation plan for additional solutions for natural gas load relief because of a material change to a proposed program that must be addressed before making the filing.
- 8/23/21 – 19-G-0066 - NYC files opposition to Con Edison's application not to pay negative revenue adjustments for failing to undertake certain safety measures due to pandemic because Con Edison had no problem attaining positive revenue adjustments during the pandemic.
- 8/31/21 – Deadline for Con Edison's Whole Building Electrification RFP.
- 9/8/21 – 19-G-0066 – Con Edison files its "Additional Solutions for Gas Peak Day Load Relief Implementation Plan."
 - Despite Con Edison's Smart Solutions program to address forecasted shortfall in peak day pipeline capacity, demand for NG continues to exceed supply, and the 3/15/18 temporary moratorium on new NG customers connections in large portion of Westchester County remains in place.
 - The current Rate Plan requires Con Ed to continue to consider and solicit innovative market solutions to address peak day gas requirements.
 - On 6/23/21, the PSC authorized Con Ed spending of up to \$5.9M on a Gas Behavioral Demand Response ("GBDR") pilot and the enablement of Heat as a Service ("HaaS") financing opportunities (third party vendors investing upfront capital to own clean heating systems and components at customer sites and charging a monthly fee for heating and cooling from the equipment and may include preventative maintenance and service).
 - Haas will launch in January 2022 and GBDR will launch for the 2022/2023 winter season.

REPORTS FROM COMMITTEES

- Education Committee – Jennifer Kearney, Chair

The NYECC continues to work with the ConEd liaison and will be holding another meeting soon to evaluate current issues and future plans. The committee will have an internal meeting to discuss seminar ideas and the NYSERDA Tier 4 REC program and will share with membership.

- Membership Committee – Mike Forese & Steve Mosto, Co-Chairs

Joe Szabo will be joining the committee to focus on B & C portfolios.

- Outreach Committee – H.G. Chissell, Chair

A vote to approve a new chairperson will be brought to the Board only meeting.

- Regulatory Committee – Daniel Avery, Chair

There was no update.

- Diversity, Equity and Inclusion Committee – H.G. Chissell, Lauren Brust Moss & Luis Rios, Co-Chairs

There was no update.

OTHER BUSINESS

Daniel Egan adjourned the September full member meeting at 9:34 AM.

BOARD MEMBER ONLY MEETING

- Vote to Approve Steering Committee Plan

The Steering Committee plan was distributed to Board Members. For the Con Edison study, The Durst Organization will retain LEI at a cost of \$45,000. The RFP, proposals and related documents will be distributed to Board Members who will vote electronically whether or not to join and share the cost of the study. The Steering Committee plan was moved for approval by Avi Itzikowitz, seconded by Steve Mosto and unanimously approved.

- Vote to Approve Chair of Communications/Outreach Committee

Corey Letcher of Trane was nominated to serve as Chair of the Communications and Outreach Committee. The nomination was moved by John Ferrante, seconded by Avi Itzikowitz and unanimously approved.

- Vote to Approve Website Phase II

The Website Phase 1 was already approved. The not to exceed amount in the contract is \$680, but the Board had previously approved up to 1,250 for Phase I. Phase 2 has a not to exceed amount of \$1,400 in the contract. Miriam Ash bills at \$85/hour if additional time is needed. A professional copywriter may be needed as well. Diana Sweeney proposed a total project not to exceed amount of \$3,500. This was moved for approval by Daniel Avery, seconded by Phil Skalaski and unanimously approved.

OTHER BUSINESS

George Diamantopoulos received an email about certain parties wanting to file a Surreply to the Joint Utilities Reply to party standby rates comments. The NYECC was invited to participate in the Surreply, if participation is deemed appropriate after NYECC Counsel reviews the draft and any subsequent drafts provided. David Bomke moved to approve the potential NYECC participation, it was seconded by Steve Mosto and unanimously approved.

ANTICIPATED ADJOURNMENT

Daniel Egan adjourned the September Board Only Meeting at 9:41 AM.

DRAFT