New York ENERGY CONSUMERS COUNCIL

POWER MOVES !

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New Electric Rates Effective May 2009

- $722 Million Overall Increase
- 11~14% increase in delivery rates
- 5~6% increased bill impact

Special Steam System Proceeding Contemplates Changes

Energy Efficiency Portfolio Standard Proceeding Still Active!

REGULATORY UPDATE

BY DAVID F. BOMKE

CON EDISON ELECTRICITY

Electric delivery rates are expected to climb! In May of 2007, Con Edison requested a three-year increase in electric rates that represented a multi-billion dollar increase in the Company's revenue requirement. After extensive intervention in the Utility Company's first fully litigated rate case in decades, the Public Service Commission (PSC) authorized Con Edison to increase its annual revenue collection "only" by $425 million, starting in April of 2008. A month later, Con Edison filed another rate increase request, seeking an increase of $654.1 million in additional revenue and proposing a three-year schedule of annual increases of $556 million (representing a total three-year revenue increase of nearly $3.3 billion). Another round of extensive intervention followed, and Con Edison's proposal for a three-year increase schedule was heartily rejected. Between its initial filing in May of 2008 and April of 2009, Con Edison progressively revised its annual revenue requirements, finally reaching an unprecedented $1.033 billion in the update it submitted to the Administrative Law Judges on April 6, 2009. <u>On April 21, 2009, the PSC approved a revenue increase of "only" $524.3 million, but the order also authorized the Company to collect an additional $198 million to satisfy the incremental utility company charges established in this year's budget. The impact of the $722 million increase is expected to range between 11~14% on delivery charges for SC 4 and SC 9 customers, with total bill charges in the 4.5~6.1% range, depending upon commodity costs. Optimists hope that declining commodity charges will conceal the sting of the delivery increases.</u>

CON EDISON STEAM

In September of 2008, the PSC approved a negotiated settlement that establishes steam rates from October 1, 2008 through September 30, 2010. That agreement agrees to investigate the allocation of costs at Con Edison's East River Repowering Plant (ERRP) between steam and electric customers. In January of 2009, the PSC implemented a special proceeding to explore several issues regarding Con Edison's steam system, including a change in the formula allocating ERRP costs between steam and electric customers, approval for Con Edison to begin the process of replacing the boilers at its Hudson Avenue plant in Brooklyn, and other issues. Some of the issues explored during this special proceeding will likely be incorporated into Con Edison's next steam rate case filing, anticipated in November of this year.

ENERGY EFFICIENCY PORTFOLIO STANDARD

On April 27th and 28th the PSC will be conducting two days of technical conferences reviewing the newest energy efficiency programs developed by NYSERDA, Con Edison, and other utilities to secure the energy efficiency savings necessary to achieve the State's commitment to reducing its electricity consumption by 15% by 2015 – from the levels that would otherwise be anticipated. These so-called "90-day plans" were filed in mid 2008 as part of the PSC's Energy Efficiency Portfolio Standard (EEPS) proceeding and will likely drive a further increase in the EEPS charges.

From the Desk of

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DAVID F. BOMKE, EXECUTIVE DIRECTOR

The NYECC is committed to fostering Innovation, Leadership, and Vision in New York's energy community. Too often in today's economic environment, short-term priorities are allowed to outweigh long-term vision, but our long-term survival and well-being demands the strongest concerted commitment to ensure economic energy reliability for coming decades.

WHEN EVERY DAY IS TAX DAY

Spring is in the air, and as a young man's heart turns toward love, this old man's thoughts are turning toward taxes. Although our recurring national discussion is primarily focused on Federal, State, and Local income taxes and the mandatory filing of assorted tax returns, this is also a particularly good time to contemplate the impact of taxes on New York's energy bills. When Governor Paterson approved this year's state budget earlier this month, for example, he added an additional $200 million to the bills of Con Edison's energy customers. For more than a quarter of a century, Public Service Law authorized the Commission to collect up to 1/3 of one per cent of the gross receipts of the companies they regulate to fund the operations of the Commission and its staff. This year's budget bill replaced that cap with a mandate to collect two per cent of those companies' gross receipts and place them in the State's General Fund – making them available to fund any business of the State. Unfortunately, even this six-fold increase did not satisfy Albany's ravenous appetite for revenue, and the legislation also took aim at the intrastate revenue of New York's competitive energy suppliers. Initially, this tax base expansion would have dealt a severe blow to large energy consumers who purchase their energy in a competitive market place, as they would have been compelled to pay duplicate taxes on both the commodity and the delivery charges. The New York Energy Consumers Council, Inc. (NYECC) added its voice to the protests of other market participants, and the legislation was finally modified to eliminate the anti-competitive components of the tax design. Regrettably, we were unable either to eliminate the total increased tax burden itself or to prevent the shift of funds away from regulatory focus into the General Fund.

Since large consumer advocates succeeded in overturning the burden of gross receipts taxes a decade ago, special interests – many of them paid to govern us – have collaborated to preserve New York's long-established practice of using the State's regulated utility companies as "secret" tax collectors. Con Edison has noted, for example, that $300 million of the rate increase request filed in May of 2008 represents increases in New York City and Westchester County property taxes assessed only against Con Edison. Since its inception, the Systems Benefits Charge initially collected to fund energy efficiency investments during the State's transition to competitive energy markets has continued to grow and grow. Rate payers are now also funding the State's Renewable Portfolio Standard, and energy consumers are now funding the carbon credits instituted by the Regional Greenhouse Gas Initiative. The Legislature has again attempted to shift those funds into their control, but once again the NYECC has helped rebuff those efforts.

LEADERSHIP VISION

Several NYECC members celebrated Earth Day by meeting with Con Edison's executive leadership to share long-term visions for New York's energy requirements and to craft strategies for preparing to meet those needs. The NYECC is committed to fostering Innovation, Leadership, and Vision in New York's energy community. Too often in today's economic environment, short-term priorities are allowed to outweigh long-term vision, but our long-term survival and well-being demands the strongest concerted commitment to ensure economic energy reliability for coming decades.

COMPETITIVE MARKETS REVISITED – UNIFORM CLEARING PRICE

Since the inception of the New York Independent System Operator (NYISO), there has been confusion and controversy about the use of the Uniform Clearing Price (UCP) to set electricity prices in New York's competitive market. In most markets, vendors quote prices for their products, and consumers choose whether or not they will purchase each product at the price offered. Vendors set their prices low enough to secure customers but high enough to meet their profitability requirements. In New York's electricity markets regulated by the NYISO – and in most other electricity markets in the United States and elsewhere on the globe – the process unfolds quite differently. Vendors are encouraged to set their prices as low as they can to guarantee that their products will be purchased at all by promising them that they will get the highest price paid – in any given market hour. Vendors offering their supply at any price higher than their lowest marginal prices risk losing the sale altogether. As the demand for electricity grows, the UCP climbs with it, driving market pressure to curtail energy consumption. This market dynamic has helped foster New York's robust Demand Response market, as well as increased awareness of the high prices and environmental impact associated with New York's dirtiest generators.

Earlier this year, Assemblymen Brodsky and Cahill challenged the NYISO to explain why the UCP was not responsible for New York's high energy prices, citing a report written by McCullough Research that claims that New York pays the 4th highest electric prices in the continental United States because of its transition to a competitive electricity market. In response to the McCullough Report, NYISO President and Chief Executive Officer Stephen G. Whitley cited a detailed analysis by Dr. Susan F. Tierney, formerly an Assistant Secretary of Policy at the U. S. Department of Energy and a Commissioner at the Massachusetts Department of Public Utilities. Dr. Tierney's analysis notes that New York's high electricity prices long predated the deregulation of the wholesale electricity market and demonstrate the role of natural gas price escalation as a major factor in the increase of New York's price of electricity during the past decade. Recent downward trends in the prices of natural gas have led to wholesale electricity prices dropping in March of this year to their lowest level since 2003, lending some additional credence to Dr. Tierney's analysis. Interestingly enough, Dr. Tierney's analysis does not comment on the contribution of New York's extensive utility taxation strategies to the State's high energy prices.

The NYECC remains concerned about every factor that contributes to the high prices New Yorkers pay for energy and will continue to explore ways in which our intervention can lower those costs. We remain committed both to challenging Con Edison's pleas for higher delivery prices and to challenging other factors that escalate the price of electricity supply and delivery, including excessive tax burdens. We shall continue to support the expansion of new clean sources of energy supply and increasing the efficiency with which we generate, deliver, and consume energy. We continue to believe that New York's diversity of electricity supply choices affords large energy consumers the opportunity to purchase the energy they require on the most competitive terms possible. New York's sophisticated markets permit large consumers to leverage the strengths of both their total consumption requirements and their load profiles to secure choices that best suit their individual requirements for competitive pricing and price certainty – options that likely could never have materialized in a tightly regulated vertical utility structure.

COMPETITIVE MARKETS REVISITED — UNIVORM CLEARING PRICE

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MARKET OVERVIEW: 2009 PRICING CONTINUES TO PRESENT A TREMENDOUS VALUE

Market Overview: 2009 Pricing Continues to Present a Tremendous Value

By Jeff Levin

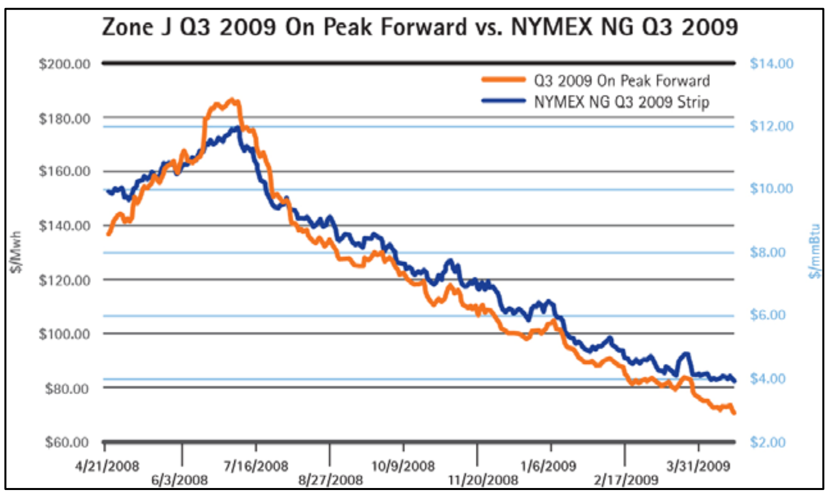
Senior Director U.S. North Sales, Direct Energy Business

The overall direction of the commodities markets has changed very little over the last few months, with prices continuing to fall for most terms driven by weak demand, a weak economy and uncertainty regarding the potential for a turnaround in the short-term.

Historical Pricing—Where we are

Natural gas prices started off in January at $5.971 for the prompt month and they are now at $3.54. This continued decline has resulted in the lowest prompt settle since September 2002. The market also saw new lows around mid-March for Calendar 2010, 2011 and 2012 and prices are at the lowest levels for all terms since 2005. The weak economy continues to suppress demand, while domestic supply output continues to be robust.

There has also been a continued decline in the rig counts, with more than 40 percent of the rigs dropping off since September 2008. And, while it is likely that this will have a long-term bullish impact on energy prices, the timing of when this will begin to have an impact is unclear.



Electricity prices in Zone J continue to follow natural gas prices and have reached the lowest levels since 2005. Prices for the balance of 2009 and Calendar 2010 are at the market low over the past four years, with the balance of 2009 in Zone J currently sitting at $54.14 around the clock (ATC) and the Calendar 2010 strip sitting at $67.70 ATC.

Futures Pricing—Where We're Going

The summer power prices have dropped tremendously over the last three months, with July and August 2009 currently trading under $80 for On-Peak. To put this into perspective, the last time Day-Ahead prices in the July-August timeframe in Zone J were under $80 was back in 2004.

The economy remains the primary market driver causing prices for 2009 to be the lowest in more than five years and making a near-term rally very unlikely without a major market surprise.

Forward curves have become more contango, as there is a more bullish outlook for the longer-term strips of Calendar 2011 and Calendar 2012—which sit at $76.75 and $80.60 respectively. At this point in time, 2009 still presents the best value in the forward market, with 2010-2012 also near market lows. However, Calendar 2010 and beyond carry the most upside risk when it comes to forward prices due to potential economic recovery, declining rig counts and possible production cuts. While there could be further decline in the prices for 2009 and 2010,

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2009 Pricing Continues to Present a Tremendous Value, *continued from page 4*

the upside risk is far greater than the downside potential.

Short-Term Pricing
On the short-term side, Day-Ahead prices in Zone J continue to weaken, reaching the lowest levels that the New York market has seen since 2003. For the month of April 2009, the On-Peak average of $49.63 and the Off-Peak average of $35.41 are almost 60 percent lower than the levels seen in 2008, and more than $45 lower than the 3-year daily average. Prices continue to fall as demand levels remain low with seasonal temperatures in the Northeast.

Market Outlook
The economy remains the primary market driver causing prices for 2009 to be the lowest in more than five years and making a near-term rally very unlikely without a major market surprise. Based on one's appetite for risk, there is strong justification for executing buys at current levels and buyers should consider all terms contingent upon their ability and willingness to buy long-term.

The future of the economy also remains one of the biggest questions in terms of whether or not the market has hit the bottom or if there is more downside potential. In addition, factors such as reduced drilling activity and demand increases, along with weather, geopolitical events, natural disasters and market surprises could incite a rally in prices.

Green Energy: Can You Afford *NOT* To Do It?

By Keena Hammond
Executive Managing Director, EnergyWatch Inc.

As members of the NYECC, we represent a substantial portion of electricity consumption in Con Edison's service territory. Such a large generation of conventional "brown" energy takes its toll on the environment, and if for no reason other than this, we should be considering the use of "green" energy as an alternative. "Green" energy – energy generated by renewable sources such as solar, wind, and geothermal power – has apparent environmental benefits. However, it is the financial benefits that have always been less obvious and remains of interest to our constituents.

A recent survey by Collier's International shows a 90% tenant approval for "green" office buildings. Additionally, 91% of tenants give preference to a "green" building over conventional space. The survey also shows that 63% of tenants are prepared to pay a premium for "green" space, with 14% willing to pay more than 10% extra for this non-conventional space. Using "green" energy creates a competitive advantage and attracts tenants willing to pay more for your space.

The question remains – how can we take advantage of this cultural shift and adopt the use of "green" energy in a cost-effective manner? The answer is through the use of Renewable Energy Certificates (RECs). A REC is simply a certificate representing 1MWh (1000kWh) of electricity produced by a renewable source. RECs are a financial instrument that give the opportunity to offset all or

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Educating Energy Consumers Toward Economical Energy Options

Membership Value

For 56 years, the NYECC, operating prior to 2004 as the Owners' Committee on Electric Rates (since 1953) and the New York Energy Buyers Forum (since 1992), has helped secure energy bill savings (avoided costs) for its members of approximately $10 for every $1 paid in member dues. No other organization is exclusively focused on the shared interests of large commercial, industrial, and institutional energy consumers in Con Edison's electric service franchise. The NYECC is committed to economic, reliable, and environmentally responsible energy production and use in New York City and Westchester County. NYECC members are committed to active control of their own energy destinies. Although NYECC's intervention in the legislative and regulatory arenas benefits all large consumers in Con Edison's territory – including both members and non-members, only NYECC members benefit from the organization's breadth and depth in specific issue advocacy at both Con Edison and the PSC.

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Green Energy: Can You Afford *NOT* To Do It?

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just a portion of our electric load in a fiscally responsible way. For example, offsetting 10% of the load in an office building that is approximately 1 million square feet would cost about $3,300 on an annual basis.

Determining what portion of your load you wish to offset is just one of the considerations that needs to be made before your REC purchase. With over 75 suppliers of RECs, it is important to look at their reputation, financial strength, product choice, and if their products are third party certified (e.g. Green-e or Environmental Resource Trust certified). For example, after vetting most of those suppliers, we work with only about 10 suppliers who meet our standards. We have also found that by structuring an RFP process, significant savings can be achieved. It is also important to work with the chosen supplier to secure added value, such as with free public relations assistance, price inclusive press releases, and communicating your purchase to employees and stakeholders.

By purchasing RECs and showing a commitment to the use of renewable energy, you demonstrate civic leadership, generate tenant, shareholder, and employee goodwill, and differentiate yourself from other conventional spaces, enabling you to capitalize on today's shift in "green" thinking. With REC prices at a 14 month low, the question is not whether you can afford it, but whether you can afford NOT to "go green".