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REGULATORY UPDATE

New Electric Rates Requested May 2009

- \$854.4 Million First Year Increase
- 19.6% increase in delivery rates
- 7.4% increased bill impact

Special Steam System Proceeding Contemplates Significant Rate Impacts

Energy Efficiency Portfolio Standard Proceeding Still Active!

Sales Taxes Expanded to Competitive Energy Purchases.

HEADS UP!

Expect Rate Increase Requests for Con Edison Steam and Natural Gas in November of 2009! New rates would go into effect on October 1, 2010.

POWER MOVES !

OCTOBER 2009

A publication of the New York Energy Consumers Council (NYECC)

Compiled and edited by: David F. Bomke, Executive Director and Daniel Levin, Co-President

REGULATORY UPDATE

BY DAVID F. BOMKE

CON EDISON ELECTRICITY

On May 1, 2009 Con Edison's raised electric rates in accordance with a \$721.4 Million revenue requirement increase approved by the Public Service Commission on April 24, 2009. Large consumers saw disproportionately larger increases as a result of New York State's implementation of more than a six-fold increase in the so-called 18-A Assessment, originally a provision that authorized the Public Service Commission to fund its operations by assessing the utilities it regulates. Regrettably, the unprecedented increase in this assessment represents no additional financial support for the Commission's regulatory efforts. Instead, the bulk of the increase was allocated to plug a shortfall in the State's General Fund. In addition to increasing the burden on regulated utilities, Albany's leadership expanded the 18-A Assessment to include the State's wholesale energy providers. Since large consumers purchase the bulk of wholesale energy, they are tasked with paying the bulk of the 18-A assessment.

Practically before the ink was dry on the new tariffs, Con Edison filed a request for an additional \$854.4 million in revenue, to become effective on April 1, 2010. Con Edison also asked for an additional \$462 million starting on April 1, 2011, as well as an additional \$391 million in increases, starting on April 1, 2012. The cumulative three-year impact of these increases would be \$3.9 billion.

The NYECC and other rate case intervenors began dissecting Con Edison's multi-ream application, asking hundreds of questions in search of greater clarity about the foundation for Con Edison's request. We also met with our members to identify consumer concerns. On August 7, 2009, Con Edison filed a Commission-ordered third-party audit of its management practices. Citing that audit report and other sources, on August 28, 2009, the NYECC pre-filed written testimony opposing Con Edison's request for any increased funds. After confirming the willingness of intervenor parties, including NYECC, to negotiate, on September 11, 2009 Con Edison filed formal notification of settlement negotiations. Formal negotiations began on September 22, 2009 and are ongoing. Stay tuned!

CON EDISON STEAM

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.

See Last Page 

ENERGY PRICE VOLATILITY – FACING SOME UNUSUAL VARIABLES

BY DANIEL LEVIN, PRESIDENT LEVIN ENERGY ADVISORS, LLC /
CO-PRESIDENT, NEW YORK ENERGY CONSUMERS COUNCIL, INC.

For those of us who monitor the energy markets, we have always watched both the market prices and the factors that move the markets. Typically, “market factors” affect market prices through their actual movement and forecasted expectations. The most common of the market factors are weather (hotter or colder than normal and hurricane activity), and supply (drilling and production activity and storage data) and demand metrics (driven by economics and weather). Over the past year, the general US and global economies have become more of a factor in energy price movement. Specifically, eroding commercial and industrial demand from the slowing economy has resulted in natural gas and oil stored surpluses and weaker prices. One unusual market factor that is expected to move energy prices over the next few years will be the long missed return of inflation.

While the weak economy has us in a period of deflation (see the table below), it is commonly accepted that the vast size of the federal stimulus package and the bailout of the financial sector will eventually result in a devaluation of the dollar and a return of inflation and possibly hyperinflation. The real question is when will we start to see inflation and at what annual rate? By some estimates we may be about a year away from the first signs of inflation and the point at which you may want to alter your energy procurement strategies. Should inflation return, only longer term fixed price contracts will insulate you from what could be rapid price increases. Until that time, we recommend prudent use of index markets (which are offering the lowest market prices) and hedges that may protect you from interim market volatility. 

The time has come to watch inflation and its impact on future energy markets.

Current Inflation Rate													
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Ave
2009	0.03%	0.24%	-0.38%	-0.74%	-1.28%	-1.43%	-2.10%	-1.48%	-1.29%	NA	NA	NA	NA
2008	4.28%	4.03%	3.98%	3.94%	4.18%	5.02%	5.60%	5.37%	4.94%	3.66%	1.07%	0.09%	3.85%
2007	2.08%	2.42%	2.78%	2.57%	2.69%	2.69%	2.36%	1.97%	2.76%	3.54%	4.31%	4.08%	2.85%
2006	3.99%	3.60%	3.36%	3.55%	4.17%	4.32%	4.15%	3.82%	2.06%	1.31%	1.97%	2.54%	3.24%

Note: Red indicates Deflation, NA indicates data not yet released.

Source: Inflationdata.com

**OUTLOOK FOR CAPACITY AND ENERGY PRICES IN NYC
ENERGY PRICES CREEP UP BUT REMAIN NEAR HISTORIC LOWS:**

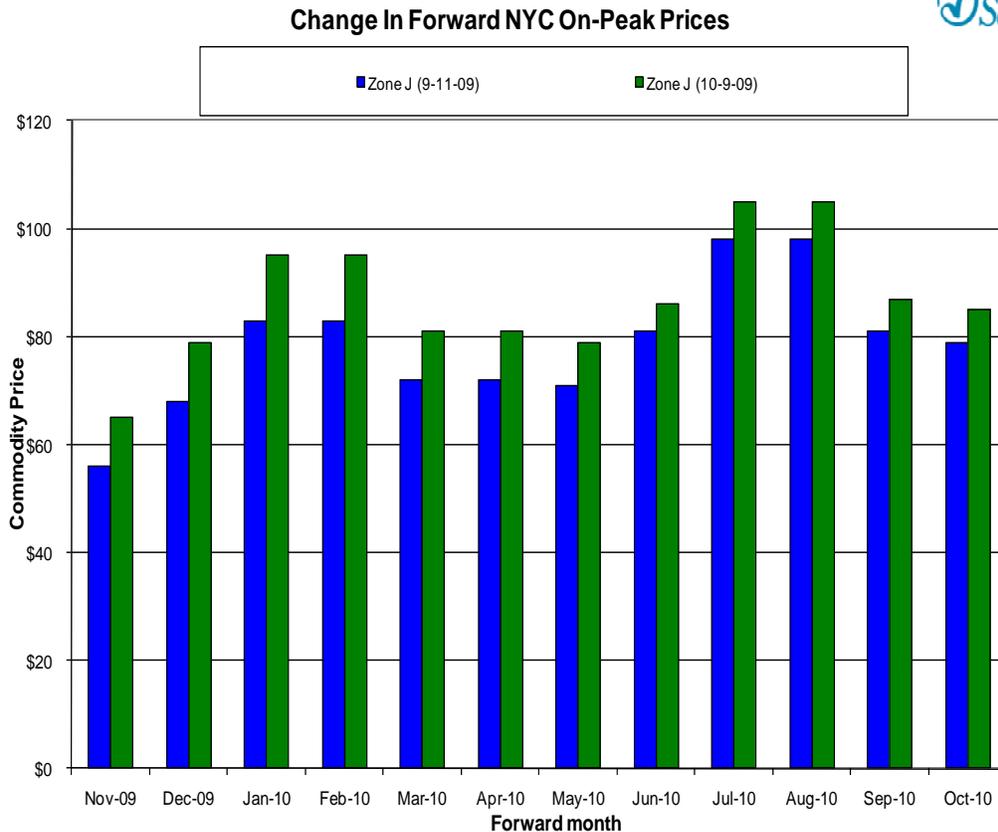
OUTLOOK FOR CAPACITY AND ENERGY PRICES IN NYC

ENERGY PRICES CREEP UP BUT REMAIN NEAR HISTORIC LOWS:

BY STEVE WEMPLE

*VICE PRESIDENT, RETAIL AND REGULATORY AFFAIRS,
CON EDISON SOLUTIONS*

The recent cold snap, in conjunction with a forecast of a cold winter, has provided some upward pressure on natural gas and electricity prices. In fact, as the following chart shows, the on-peak price of electricity in NYC has increased by approximately \$8/MWH or 11% in the past month.



Energy Market Outlook – energy at significant lows and capacity expected to be volatile in 2010.

With gas storage levels at record high levels and forecasts for a slow economic recovery, there is a possibility that the upward trend could reverse and prices move downwards. However, compared to historical levels, current energy prices are at or near their five year lows and may offer customers the opportunity to lock in at favorable prices.

The attached chart shows how the forward market for electric-

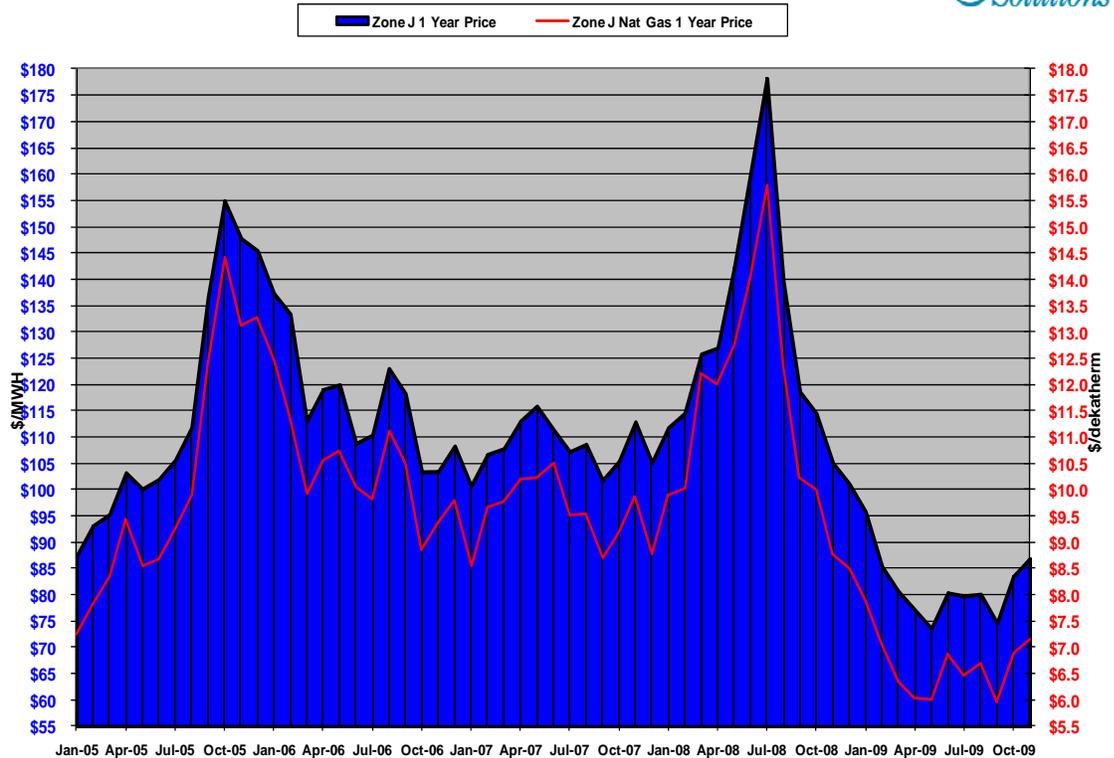


OUTLOOK FOR CAPACITY AND ENERGY PRICES

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ity (as measured by the cost of a one year supply of on-peak electricity) has tracked the corresponding cost for natural gas over the past five years.

Zone J On Peak and Nat Gas Delivered 1 Year Average Forward Prices



Outlook for Capacity Markets:

The NYC capacity market is likely to be very dynamic over the upcoming year. In November, the Linden Variable Frequency Transformer is scheduled to go into service and start delivering 300 MW of capacity and energy from New Jersey into New York City. This additional supply should lower in-City capacity prices through January, potentially down to Rest of State levels. At the end of January, the retirement of NYPA's Poletti unit will reduce in-City supplies by 800 MW. Without the Poletti unit, winter capacity prices should rebound and could reach the \$ 7/kw-month level we saw last summer.

For next summer, capacity prices will increase and potentially double because of the normal seasonal differential in plant ratings which increases the amount of winter supply relative to the summer. In addition, the NYISO is scheduled to increase the price of the capacity demand curves by 11% but the impact of this increase should be mitigated by the fact that the 2010 NYC peak load, which determines the capacity requirement, is forecasted to be 11,822 MW, or 2% less than the 2009 forecast of 12,050 MW.

OUTLOOK FOR CAPACITY AND ENERGY PRICES IN NYC
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Energy Market
Outlook –
energy at
significant lows
and capacity
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volatile in 2010.

1221 AVENUE OF THE AMERICAS ACHIEVES LEED-EB CERTIFICATION

BY BETSY KRAAT FOR METROGREEN + BUSINESS
(<http://www.metrogreenbusiness.com>)

NEW YORK, NY-- Rockefeller Group Development Corporation, a subsidiary of The Rockefeller Group, announced that its signature building, The McGraw-Hill Building, 1221 Avenue of the Americas, has achieved LEED-EB Certification.

The 2.5 million sf property is the largest LEED-EB certified building in New York. LEED-EB is the designation by the US Green Building Council (USGBC) for existing buildings.

"We are very proud to achieve LEED certification for the McGraw-Hill Building and we will continue to support USGBC's efforts towards a sustainable and prosperous future," said Kevin R. Hackett, President and CEO of Rockefeller Group International, Inc. "This accomplishment was important to us as well as our tenants, who worked with us to incorporate sustainable best management practices for the building for site maintenance, water usage, energy management, waste diversion, cleaning and indoor air quality."

The Rockefeller Group worked with CodeGreen Solutions, a sustainable building consultant firm based in New York City, to develop a LEED action plan and manage the project team, comprised mainly of Rockefeller Group operations personnel and the building's engineers. CodeGreen monitored compliance of the building's operation and maintenance policies and practices, as well as upgrades to the facility's standard operating procedures (SOPs), credit narratives, credit documentation and template completion. Upon implementation of the LEED action plan, the United States Green Building Council (USGBC) awarded the building and project team the prerequisites and credit points required for LEED-EB certification.

The Rockefeller Group also worked with AKF Engineers, a leading consulting engineering firm. AKF and The Rockefeller Group's engineers headed efforts to reduce the amount of energy used by the building. This effort led to a consistent Energy Star rating, which is integral to the LEED certification process.

In addition to energy-reduction efforts, The Rockefeller Group's waste reduction policy emphasizes recycling and diverts from landfills significant office waste leaving the building, and a large percentage of any construction waste. Indoor air quality was improved using high-efficiency HEPA filtration media installed at interior supply fans, reducing particulates in the air system. Lastly, more than 75 percent of cleaning products used in the building comply with industry-wide green standards.

"We would like to recognize the building's vendors who document their procedures so that the building could be LEED-certified," added James Haviaris, Senior Vice President of Operations and Management, Rockefeller Group Development Corporation. "Our vendors TAC by Schneider Electric, Pritchard Industries, IESI, Knight Electrical, JamesTown Technologies, Ambient Group, Assured Environments and Julius Roehrs did an outstanding job and we appreciate their support on this project." 

NYECC Member
certified as
largest LEED
Existing
Building Project
in the country.

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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. 



REGULATORY UPDATE

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ENERGY EFFICIENCY PORTFOLIO STANDARD

On October 15th, 2009, the Public Service Commission approved more than \$166 million in funding for 15 natural gas and electric energy efficiency programs for the commercial and industrial customer market segment, the largest funding amount announced so far this year for energy efficiency efforts. The approved electric programs include Con Edison's commercial and industrial equipment rebate program, \$74.96 million (133,148 MWh savings target) and NYSERDA's existing facilities program, \$26.39 million (146,302 MWh savings target). In addition, the Commission set aside \$20.74 million for gas energy efficiency programs. The approved gas programs include Con Edison's commercial gas efficiency equipment rebate program, \$6.39 million (110,762 dekatherms savings target); KeySpan NY's commercial and industrial and multifamily energy efficiency program, \$3.36 million (70,200 dekatherms savings target); and NYSERDA's existing facilities and Flex Tech program, \$5.18 million (383,282 dekatherms saving target). The energy savings numbers represent annual reductions in electric and gas usage that will carry forward through 2015.

SALES TAXES

When the State government approved the City's petition to increase its collection of sales tax, it also ended the City's exemption on sales tax on the delivery of energy procured in the competitive market. It is far too possible that the State will follow the City's lead and end its own sales tax exemption as it struggles to balance its own budget shortfalls during the coming months. 