

RULE MAKING ACTIVITIES

Each rule making is identified by an I.D. No., which consists of 13 characters. For example, the I.D. No. AAM-01-96-00001-E indicates the following:

AAM -the abbreviation to identify the adopting agency
01 -the *State Register* issue number
96 -the year
00001 -the Department of State number, assigned upon receipt of notice.
E -Emergency Rule Making—permanent action not intended (This character could also be: A for Adoption; P for Proposed Rule Making; RP for Revised Rule Making; EP for a combined Emergency and Proposed Rule Making; EA for an Emergency Rule Making that is permanent and does not expire 90 days after filing.)

Italics contained in text denote new material. Brackets indicate material to be deleted.

Higher Education Services Corporation

INFORMATION NOTICE

A Notice of Adoption, I.D. No. ESC-35-09-00008-A, pertaining to New York Higher Education Loan Program, published in the November 4, 2009 issue of the *State Register* adopted Part 2200-a which will be published in 8 NYCRR as Part 2213 to accommodate the numbering scheme.

Department of Labor

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Public Employees Occupational Safety and Health Standards

I.D. No. LAB-50-09-00001-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: This is a consensus rule making to add section 800.3(dq) to Title 12 NYCRR.

Statutory authority: Labor Law, section 27-a(4)(a)

Subject: Public Employees Occupational Safety and Health Standards.

Purpose: To incorporate by reference updates to OSHA standards into the State Public Employee Occupational Safety and Health Standards.

Text of proposed rule: Regulation 12 NYCRR § 800.3 is amended to add the following subdivision:

(dq) Employer Payment for Personal Protective Equipment; Final Rule-72 Federal Register 64341-64430, November 15, 2007.

Text of proposed rule and any required statements and analyses may be obtained from: Michael Paglialonga, Department of Labor, Building 12, State Office Campus, Room 509, Albany, NY 12240, (518) 457-1938, email: ndemp3@labor.state.ny.us

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

This action was not under consideration at the time this agency's regulatory agenda was submitted.

Consensus Rule Making Determination

This amendment is necessary because Section 27-a(4)(a) of the Labor Law directs the Commissioner to adopt by rule, for the protection of the safety and health of public employees, all safety and health standards promulgated under the U.S. Occupational Safety and Health Act of 1970, and to promulgate and repeal such rules and regulations as may be necessary to conform to the standards established pursuant to that Act. This insures that public employees will be afforded the same safeguards in their workplaces as are granted to employees in the private sector.

Job Impact Statement

As the proposed action does not affect jobs and employment opportunities but simply affords workplace safety and health guidelines to improve job performance and safety, a job impact statement is not submitted.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Public Employees Occupational Safety and Health Standards

I.D. No. LAB-50-09-00015-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: This is a consensus rule making to add section 800.3(dr) to Title 12 NYCRR.

Statutory authority: Labor Law, section 27-a(4)(a)

Subject: Public Employees Occupational Safety and Health Standards.

Purpose: To incorporate by reference updates to OSHA standards into the State Public Employee Occupational Safety and Health Standards.

Text of proposed rule: Regulation 12 NYCRR § 800.3 is amended to add the following subdivision:

(dr) Clarification of Employer Duty To Provide Personal Protective Equipment and Train Each Employee; Final Rule-73 Federal Register 75568-75589, December 12, 2008.

Text of proposed rule and any required statements and analyses may be obtained from: Michael Paglialonga, Department of Labor, Building 12, State Office Campus, Room 509, Albany, NY 12240, (518) 457-1938, email: ndemp3@labor.state.ny.us

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

This action was not under consideration at the time this agency's regulatory agenda was submitted.

Consensus Rule Making Determination

This amendment is necessary because Section 27-a(4)(a) of the Labor Law directs the Commissioner to adopt by rule, for the protection of the safety and health of public employees, all safety and health standards

promulgated under the U.S. Occupational Safety and Health Act of 1970, and to promulgate and repeal such rules and regulations as may be necessary to conform to the standards established pursuant to that Act. This insures that public employees will be afforded the same safeguards in their workplaces as are granted to employees in the private sector.

Job Impact Statement

As the proposed action does not affect jobs and employment opportunities but simply affords workplace safety and health guidelines to improve job performance and safety, a job impact statement is not submitted.

Office of Mental Health

EMERGENCY RULE MAKING

Personalized Recovery-Oriented Services (PROS)

I.D. No. OMH-45-09-00008-E

Filing No. 1340

Filing Date: 2009-11-30

Effective Date: 2009-11-30

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Part 512 of Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 7.09, 31.04 and 43.02; Social Services Law, sections 364(3) and 364-a(1)

Finding of necessity for emergency rule: Preservation of general welfare.

Specific reasons underlying the finding of necessity: The amendments to the Personalized Recovery-Oriented Services (PROS) regs are a direct result of evaluations of operational PROS programs and feedback from PROS providers. In order to conform to new billing features, the regulation had to have been in effect on September 1, 2009. As the rulemaking has not yet been adopted as final, a subsequent emergency adoption is required to keep the rule in effect.

Subject: Personalized Recovery-Oriented Services (PROS).

Purpose: Modify registration, documentation, program standards; include method for calculating capital add-on; publish new base rates.

Substance of emergency rule: This rule will amend Part 512 of Title 14 NYCRR, which established the licensed program category for Personalized Recovery-Oriented Services (PROS) programs. The complete text of the rulemaking is available at www.omh.state.ny.us.

OVERVIEW

The purpose of a PROS program is to assist individuals in their recovery from the disabling effects of mental illness through the coordinated delivery of a customized array of rehabilitation, treatment and support services. Such services are available both in traditional program settings and in off-site locations where individuals live, learn, work and socialize. Providers are expected to create a therapeutic environment which fosters awareness, hopefulness and motivation for recovery while supporting a harm reduction philosophy.

The PROS regulations adopted in February, 2008, included a stringent registration process, rigorous documentation requirements, and specific programmatic decisions reflecting current clinical practice. Since adoption of the 2008 PROS regulations, OMH has received valuable information through evaluation of operational PROS programs and feedback from PROS providers. Therefore, changes within the PROS regulations are necessary in order to provide an updated, improved mental health delivery system. An overview of the revisions is provided below.

REVISIONS REGARDING REGISTRATION SYSTEM

OMH developed and implemented a PROS registration system that would alert PROS providers and other service providers of potential unauthorized co-enrollment issues. While the PROS registration process accomplished its goal of administering co-enrollment edits via an electronic pre-billing process, it proved to be a complex and costly process for both providers and OMH. Therefore, OMH, in conjunction with the New York State Department of Health, has modified the

EMedNY system and the OMH registration system, creating a “real-time” registration process. This change will eliminate certain registration and documentation requirements, thus reducing cost to both PROS providers and to OMH.

REVISIONS REGARDING DOCUMENTATION

When the PROS regulations were adopted, modifications were made which increased the documentation requirements related to reimbursement. OMH has since determined that these requirements resulted in a difficult record keeping process which could reduce the efficient operation of a mental health program. The unfunded operational cost of the documentation requirements created clinical and financial strains on PROS providers. The amended regulations modify the PROS documentation requirements in a manner that is consistent with the requirements of other outpatient programs.

REVISIONS REGARDING GROUP SIZE

In many instances, PROS services are provided in a group format. Current regulations state ratios for groups within Community Rehabilitation and Support (CRS) to be 12 recipients to one staff person and, for Intensive Rehabilitation (IR), eight recipients to one staff person. Providers have the flexibility, on occasion, to include up to 15 individuals in CRS groups and 10 individuals in IR groups. However, the existing regulations limit providers, in these cases, to bill for only 12 individuals in CRS groups and eight individuals in the IR groups. Currently, if more than 15 individuals attend a CRS group or 10 individuals attend an IR group, the regulations do not permit billing for any member of the group. The amended regulations remove the provision that disallows payment for all group members when groups exceed 15 for CRS and 10 for IR and allows the provider to bill for up to 15 for CRS or 10 for IR. The ratios will be maintained in regulation but will be handled as a certification/clinical practice issue.

REVISIONS REGARDING ONGOING REHABILITATION AND SUPPORT

Ongoing rehabilitation and support (ORS) is a service which is designed to provide ongoing counseling, mentoring, advocacy and support for the purpose of sustaining an individual’s role in competitive, integrated employment. Current regulations state that providers may only bill the ORS component add-on for individuals who work in an integrated competitive job for a minimum of 15 hours per week. However, provider feedback indicates that individuals are frequently working 10 hours or more per week, but not the necessary 15 hour minimum. OMH has amended the regulations to reflect a change from 15 hours to 10 hours per week for the minimum required for ORS services.

REVISIONS REGARDING CAPITAL ADD-ON FOR HOSPITAL-BASED PROS

Under the existing regulations, certain hospital-based providers may receive an add-on to their monthly case payment that reflects their capital costs. However, the current regulations do not include the methodology for calculating such add-on funding. The regulations have been modified to include such methodology.

REVISIONS REGARDING COLA

A cost of living adjustment, which increased monthly base rates, as well as rates for intensive rehabilitation and ongoing rehabilitation and support services, was established effective April 1, 2008. That COLA is consistent with the enacted 2008-2009 State Budget and is reflected in this rulemaking.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. OMH-45-09-00008-P, Issue of November 10, 2009. The emergency rule will expire January 28, 2010.

Text of rule and any required statements and analyses may be obtained from: Joyce Donohue, NYS Office of Mental Health, 44 Holland Avenue, Albany, NY 12229, (518) 474-1331, email: cochjdd@omh.state.ny.us

Regulatory Impact Statement

1. Statutory authority: Subdivision (b) of Section 7.09 of the Mental Hygiene Law grants the Commissioner of the Office of Mental Health (OMH) the authority and responsibility to adopt regulations that are necessary and proper to implement matters under his or her jurisdiction.

Subdivision (a) of Section 31.04 of the Mental Hygiene Law empowers the Commissioner to issue regulations setting standards for licensed programs for the rendition of services for persons with mental illness.

Subdivision (a) of Section 43.02 of the Mental Hygiene Law provides that payments under the medical assistance program for services approved by the Office of Mental Health shall be at rates certified by the Commissioner of Mental Health and approved by the Director of the Budget. Subdivision (b) of Section 43.02 of the Mental Hygiene Law gives the Commissioner authority to request from operators of facilities licensed by the OMH such financial, statistical and program information as the Commissioner may determine to be necessary. Subdivision (c) of Section 43.02 of the Mental Hygiene Law gives the Commissioner of Mental Health authority to adopt rules and regulations relating to methodologies used in establishment of schedules of rates for services.

Sections 364(3) and 364-a(1) of the Social Services Law give OMH responsibility for establishing and maintaining standards for medical care and services in facilities under its jurisdiction, in accordance with cooperative arrangements with the Department of Health.

2. Legislative objectives: Articles 7, 31 and 43 of the Mental Hygiene Law reflect the Commissioner's authority to establish regulations regarding mental health programs and establish rates of payments for services under the Medical Assistance program. Sections 364 and 364-a of the Social Services Law reflect the role of the Office of Mental Health regarding Medicaid reimbursed programs. The rulemaking furthers the Legislative intent under Article 7 by ensuring that the Office of Mental Health fulfills its responsibility to assure the development of comprehensive plans, programs and services in the care, treatment, rehabilitation and training of persons with mental illness.

3. Needs and benefits: The Personalized Recovery-Oriented Services (PROS) initiative created a framework to assist individuals and providers in improving both the quality of care and outcomes for people with serious mental illness in New York State.

The PROS regulations adopted in February, 2008, included a stringent registration process, rigorous documentation requirements, and specific programmatic decisions reflecting current clinical practice. Since that time, OMH has received valuable information through the evaluation of operational PROS programs and feedback from PROS providers. The changes within the PROS regulations are necessary in order to provide an updated, improved mental health delivery system.

One issue that was needed to be addressed was the registration process. OMH had developed and implemented a PROS registration system, the intent of which was to alert PROS providers and other service providers of potential unauthorized co-enrollment issues. While the PROS registration process does accomplish its goal of administering co-enrollment edits via an electronic pre-billing process, it proved to be a complex and costly system for providers and OMH. In some cases, the registration system created delays in processing and limited payment for services within the lower pre-admission payment rate. For example, an individual may have received an entire month of PROS services, yet the provider was reimbursed at a level that did not cover the real costs of rendering those services because of the pre-admission payment rate.

It has become apparent that the three phases of PROS enrollment, each carrying a different set of documentation requirements, added greater complexity and costs to OMH and to PROS providers. In addition, OMH staff must be allocated to operate this system, which is difficult in this time of limited fiscal resources. As a result, OMH, in conjunction with the New York State Department of Health, has modified the EMedNY system and the registration system will be adjusted to serve as a "real-time registration." This change will eliminate certain registration and documentation requirements, thus reducing costs to both PROS providers and OMH.

Another area of concern was the documentation requirements within the regulations. When the PROS regulations were adopted, modifications were made which increased the documentation requirements related to reimbursement. OMH has since determined that these

requirements resulted in a difficult recordkeeping process which could potentially be disruptive to the efficient operation of a mental health program. The unfunded operational cost of the documentation requirements created clinical and financial strains on PROS providers.

The amended regulations modify the PROS documentation requirements in a manner that is consistent with the requirements of other outpatient programs. Providers will collect information essential to prove medical necessity for services, provide a road map for an individual's participation in the program, and justify individual monthly PROS bills. The changes, however, will allow providers to complete these critical functions effectively and efficiently in a manner that improves clinical care and fiscal accountability. In addition, the changes will allow providers to develop approaches and documentation practices that fit the intent of their program and integrate with their current practice and electronic record keeping and billing systems.

Revisions were also required to the billing processes for certain groups. In many instances, PROS services are provided in a group format. Current regulations state ratios for groups within Community Rehabilitation and Support (CRS) to be 12 recipients to one staff person and, for Intensive Rehabilitation (IR), eight recipients to one staff person. Providers have the flexibility to, on occasion, include up to 15 individuals in CRS groups and 10 individuals in IR groups. Under existing regulations, providers are limited in these cases to bill for only 12 individuals in CRS groups and eight individuals in IR groups. In addition, current regulations do not permit billing for any member of the group if more than 15 individuals (CRS) or 10 individuals (IR) are in attendance. The amended regulations remove the provision that disallows payment for all group members when groups exceed 15 for CRS and 10 for IR and allows the provider to bill for up to 15 for CRS or 10 for IR. The ratios will be maintained in regulation but will be handled as a certification/clinical practice issue.

Changes were also needed regarding ongoing rehabilitation and support (ORS) services. The ORS service is designed to provide ongoing counseling, mentoring, advocacy and support for the purpose of sustaining an individual's role in competitive, integrated employment. It is intended to assist individuals in managing symptoms and overcoming functional impairments as they integrated into a competitive workplace. The existing regulations state that providers may bill the ORS component add-on only for individuals who work in an integrated competitive job for a minimum of 15 hours per week. However, feedback from providers had indicated that individuals are frequently working 10 hours or more per week, but not the necessary 15-hour minimum. In an effort to be responsive to current practice, sensitive to the present economy, and respectful of the clinical benefit to individuals, the agency has amended the regulations to reflect a change from 15 hours to 10 hours per week for the minimum required for ORS services.

Modifications were also needed to include a methodology for calculating add-on funding. Under existing regulation, certain hospital-based providers may receive an add-on to their monthly case payment that reflects their capital costs. As the existing regulations do not provide such methodology, the amended regulations have been modified accordingly.

Lastly, a cost of living adjustment, which increased monthly base rates, as well as rates for intensive rehabilitation and ongoing rehabilitation and support services, was established effective April 1, 2008. That COLA is consistent with the enacted 2008-2009 State Budget and is reflected in this rulemaking.

4. Costs:

(a) Cost to regulated persons: The only potential costs to regulated persons would be for the expenditures incurred by the current 21 licensed PROS providers in making the necessary system changes to adapt their electronic medical records and billing systems to comport with the amended regulations. These costs should be offset by the savings that will be generated by the reduced staff time needed to meet the requirements under existing regulations. All new licensees will experience a savings in costs than would have otherwise occurred under the existing regulations.

(b) Cost to State and local government: None expected. Costs to the

State may be lessened as a result of staff savings. Additional staff would have been necessary to operate the PROS enrollment system had the registration system not been modified.

5. Local government mandates: The regulation will not mandate any additional imposition of duties or responsibilities upon county, city, town, village, school or fire districts.

6. Paperwork: This rulemaking should not result in an increase in paperwork requirements. One of the goals of this rulemaking is to lessen the paperwork burden placed on providers, so ultimately it should result in less paperwork requirements.

7. Duplication: The regulatory amendment does not duplicate existing State or federal requirements.

8. Alternatives: The only alternative would have been to continue with the current PROS regulations in place. As the amendments reflect input from PROS providers and should ultimately result in an improved and more efficient mental health delivery system, that alternative was necessarily rejected.

9. Federal standards: The regulatory amendment does not exceed any minimum standards of the federal government for the same or similar subject areas.

10. Compliance schedule: The regulatory amendment will become effective upon adoption.

Regulatory Flexibility Analysis

The amendments to 14 NYCRR Part 512, Personalized Recovery-Oriented Services, specify new registration processes, documentation requirements and program standards; provide the methodology for calculating capital add-on funding associated with certain hospital providers; and indicate a cost of living adjustment which was effective 4/1/08. This rulemaking will not create an adverse economic impact upon small business or local governments; therefore, a regulatory flexibility analysis is not submitted with this notice.

Rural Area Flexibility Analysis

The amendments to 14 NYCRR Part 512, Personalized Recovery-Oriented Services, specify new registration processes, documentation requirements and program standards; provide the methodology for calculating capital add-on funding associated with certain hospital providers; and include a cost of living adjustment, which was effective 4/1/08. This rulemaking will not impose any adverse economic impact upon rural areas; therefore, a Rural Area Flexibility Analysis is not submitted with this notice.

Job Impact Statement

A Job Impact Statement is not submitted with this notice because there will be no adverse impact on jobs and employment opportunities. The rulemaking merely serves to modify registration processes, documentation requirements, and program standards for Personalized Recovery-Oriented Services (PROS) programs. In addition, it provides the methodology for calculating capital add-on funding associated with certain hospitals, and includes a cost of living adjustment, which was effective 4/1/08.

Public Service Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

National Grid's Multifamily Electric Energy Efficiency Programs

I.D. No. PSC-50-09-00003-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering a petition for rehearing dated August 26, 2009 regarding the design of Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) multifamily electric energy efficiency program.

Statutory authority: Public Service Law, sections 4(1), 5(2) and 66(1)

Subject: National Grid's multifamily electric energy efficiency programs.

Purpose: To encourage electric energy conservation in the State.

Substance of proposed rule: The Commission is considering whether to

adopt, adopt with modifications, or reject, in whole or in part, the relief requested by Niagara Mohawk Power Corporation d/b/a National Grid (National Grid or the company) in a petition for rehearing dated August 27, 2009 regarding the design of the company's Multifamily Electric Efficiency Program. National Grid seeks rehearing of an order in Case 08-E-1127, et al., entitled "Order Approving Multifamily Energy Efficiency Programs with Modifications" issued by the Public Service Commission on July 27, 2009. The order was issued as part of the Energy Efficiency Portfolio Standard Program.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.state.ny.us/f96dir.htm>. For questions, contact: Leann Ayer, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: leann_ayer@dps.state.ny.us

Data, views or arguments may be submitted to: Jaclyn A. Brillling, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.state.ny.us

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(08-E-1133SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

To Decide Whether to Grant, Deny or Modify, in Whole or in Part, the New York Power Authority's Petition for Rehearing

I.D. No. PSC-50-09-00004-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Public Service Commission is considering whether to grant, deny or modify, in whole or in part, the New York Power Authority's (NYPA's) Petition for Rehearing of the Commission's October 23, 2009 Order.

Statutory authority: Public Service Law, sections 4(1), 5, 8, 20(1), 22, 65 and 66

Subject: To decide whether to grant, deny or modify, in whole or in part, the New York Power Authority's Petition for Rehearing.

Purpose: To decide whether to grant, deny or modify, in whole or in part, the New York Power Authority's Petition for Rehearing.

Substance of proposed rule: The Commission is deciding whether to grant, modify or deny, in whole or in part, the New York Power Authority's (NYPA's) Petition for Rehearing of the October 23, 2009 Order Adopting in Part and Modifying in Part Consolidated Edison Company of New York, Inc.'s Demand Response Programs. NYPA claims that the Commission committed an error of fact by requiring NYPA to recover demand response program costs from NYPA customers.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.state.ny.us/f96dir.htm>. For questions, contact: Leann Ayer, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: leann_ayer@dps.state.ny.us

Data, views or arguments may be submitted to: Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.state.ny.us

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(09-E-0115SP3)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Con Edison's Proposed Modifications to the Commission's October 23, 2009 Order

I.D. No. PSC-50-09-00005-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Public Service Commission is considering whether to grant, deny or modify, in whole or in part, Consolidated Edison Company of New York, Inc.'s (Con Edison) Petition for Clarification of the Commission's October 23, 2009 Order.

Statutory authority: Public Service Law, sections 4(1), 5, 8, 20(1), 22, 65 and 66

Subject: Con Edison's proposed modifications to the Commission's October 23, 2009 Order.

Purpose: To consider whether to grant or deny Consolidated Edison Company of New York, Inc.'s Petition for Clarification.

Substance of proposed rule: The Commission is deciding whether to grant, modify or deny, in whole or in part, Consolidated Edison Company of New York, Inc.'s (Con Edison) Request for Clarification of the October 23, 2009 Order Adopting in Part and Modifying in Part Con Edison's Demand Response Programs. Con Edison requests clarification of several issues and requests one modification regarding the posting of forecast information on its website. The October 23, 2009 Order directs the posting of New York Independent System Operator Zone J load information on Con Edison's website, and Con Edison requests that system-wide forecast information be posted instead since the programs will be called based on system-wide information.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.state.ny.us/f96dir.htm>. For questions, contact: Leann Ayer, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: leann_ayer@dps.state.ny.us

Data, views or arguments may be submitted to: Jaclyn A. Brillling, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.state.ny.us

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(09-E-0115SP2)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

To Decide Whether to Grant, Deny or Modify, in Whole or in Part, EnerNOC, Inc.'s Petition for Rehearing

I.D. No. PSC-50-09-00006-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Public Service Commission is considering whether to grant, deny or modify, in whole or in part, EnerNOC, Inc.'s Petition for Rehearing of the Commission's October 23, 2009 Order.

Statutory authority: Public Service Law, sections 4(1), 5, 8, 20(1), 22, 65 and 66

Subject: To decide whether to grant, deny or modify, in whole or in part, EnerNOC, Inc.'s Petition for Rehearing.

Purpose: To decide whether to grant, deny or modify, in whole or in part, EnerNOC, Inc.'s Petition for Rehearing.

Substance of proposed rule: The Commission is deciding whether to grant, modify or deny, in whole or in part, EnerNOC, Inc.'s Petition for Rehearing of the October 23, 2009 Order Adopting in Part and Modifying in Part Consolidated Edison Company of New York, Inc.'s Demand Response Programs. EnerNOC claims that the Commission committed an error of fact by according no weight to the statements by the Curtailment

Service Provider community that the programs' pricing levels are insufficient for the amount of risk as compared to competing programs. EnerNOC also claims that the Commission committed an error of law by rejecting EnerNOC's proposal for selecting Curtailment Service Providers without stating a reason for the rejection.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.state.ny.us/f96dir.htm>. For questions, contact: Leann Ayer, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: leann_ayer@dps.state.ny.us

Data, views or arguments may be submitted to: Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: Secretary@dps.state.ny.us

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(09-E-0115SP4)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Net Metering for Micro-Combined Heat and Power Generating Systems

I.D. No. PSC-50-09-00007-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering a proposed filing by New York State Electric & Gas Corporation to make various changes in the rates, charges, rules and regulations contained in its Schedule for Electric Service, PSC No. 120 — Electricity.

Statutory authority: Public Service Law, section 66(12)

Subject: Net Metering for Micro-Combined Heat and Power Generating Systems.

Purpose: To effectuate change to PSL Section 66-j in relation to net metering for micro-combined heat and power generating systems.

Substance of proposed rule: The Commission is considering whether to approve, modify or reject, in whole or in part, a proposed filing by New York State Electric & Gas Corporation to effectuate the change to Public Service Law Section 66-j in relation to net metering for micro-combined heat and power generating systems. The New York State Standardized Interconnection Requirements (SIR) document would also be modified to incorporate the updates to PSL 66-j in relation to net metering for micro-combined heat and power generating systems. The proposed amendments have an effective date of February 26, 2010.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.state.ny.us/f96dir.htm>. For questions, contact: Leann Ayer, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: leann_ayer@dps.state.ny.us

Data, views or arguments may be submitted to: Jaclyn A. Brillling, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: Secretary@dps.state.ny.us

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(09-E-0829SP1)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Net Metering for Micro-Combined Heat and Power Generating Systems

I.D. No. PSC-50-09-00008-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering a proposed filing by Central Hudson Gas and Electric Corporation to make various changes in the rates, charges, rules and regulations contained in its Schedule for Electric Service, PSC No. 15 — Electricity.

Statutory authority: Public Service Law, section 66(12)

Subject: Net Metering for Micro-Combined Heat and Power Generating Systems.

Purpose: To effectuate change to PSL Section 66-j in relation to net metering for micro-combined heat and power generating systems.

Substance of proposed rule: The Commission is considering whether to approve, modify or reject, in whole or in part, a proposed filing by Central Hudson Gas and Electric Corporation to effectuate the change to Public Service Law Section 66-j in relation to net metering for micro-combined heat and power generating systems. The New York State Standardized Interconnection Requirements (SIR) document would also be modified to incorporate the updates to PSL 66-j in relation to net metering for micro-combined heat and power generating systems. The proposed amendments have an effective date of February 26, 2010.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.state.ny.us/f96dir.htm>. For questions, contact: Leann Ayer, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: leann_ayer@dps.state.ny.us

Data, views or arguments may be submitted to: Jaclyn A. Brillling, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: Secretary@dps.state.ny.us

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(09-E-0830SP1)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Whether to Permit the Use of Landis + Gyr Solid State Electric Meter Line for Use in Residential and Commercial Accounts

I.D. No. PSC-50-09-00009-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Public Service Commission is considering whether to approve, deny or modify, in whole or in part, a petition filed by Landis + Gyr Incorporated for the approval to use the FOCUS AX solid state electric meter line.

Statutory authority: Public Service Law, sections 67(1)

Subject: Whether to permit the use of Landis + Gyr solid state electric meter line for use in residential and commercial accounts.

Purpose: Pursuant to 16 NYCRR Part 93, is necessary to permit electric utilities in New York State to use the Landis + Gyr AX meter.

Substance of proposed rule: The Public Service Commission is considering whether to grant, deny or modify, in whole or part, the petition filed by Landis + Gyr Incorporated, to use the FOCUS AX solid-state electric meter in residential and commercial accounts.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.state.ny.us/f96dir.htm>. For questions, contact: Leann Ayer, Public Service Commission, Three Empire State Plaza, Albany, New York 10007, (518) 486-2655, email: leann_ayer@dps.state.ny.us

Data, views or arguments may be submitted to: Jaclyn A. Brillling, Secretary, Public Service Commission, Three Empire State Plaza, Albany, NY 10007, (518) 474-6530, email: Secretary@dps.state.ny.us

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(09-E-0831SP1)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Net Metering for Micro-Combined Heat and Power Generating Systems

I.D. No. PSC-50-09-00010-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering a proposed filing by Rochester Gas and Electric Corporation to make various changes in the rates, charges, rules and regulations contained in its Schedule for Electric Service, PSC No. 19 — Electricity.

Statutory authority: Public Service Law, section 66(12)

Subject: Net Metering for Micro-Combined Heat and Power Generating Systems.

Purpose: To effectuate change to PSL Section 66-j in relation to net metering for micro-combined heat and power generating systems.

Substance of proposed rule: The Commission is considering whether to approve, modify or reject, in whole or in part, a proposed filing by Rochester Gas and Electric Corporation to effectuate the change to Public Service Law Section 66-j in relation to net metering for micro-combined heat and power generating systems. The New York State Standardized Interconnection Requirements (SIR) document would also be modified to incorporate the updates to PSL 66-j in relation to net metering for micro-combined heat and power generating systems. The proposed amendments have an effective date of February 26, 2010.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.state.ny.us/f96dir.htm>. For questions, contact: Leann Ayer, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: leann_ayer@dps.state.ny.us

Data, views or arguments may be submitted to: Jaclyn A. Brillling, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: Secretary@dps.state.ny.us

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(09-E-0832SP1)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Net Metering for Micro-Combined Heat and Power Generating Systems

I.D. No. PSC-50-09-00011-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering a proposed filing by Orange and Rockland Utilities, Inc. to make various changes in the rates, charges, rules and regulations contained in its Schedule for Electric Service, PSC No. 2 — Electricity.

Statutory authority: Public Service Law, section 66(12)

Subject: Net Metering for Micro-Combined Heat and Power Generating Systems.

Purpose: To effectuate change to PSL Section 66-j in relation to net metering for micro-combined heat and power generating systems.

Substance of proposed rule: The Commission is considering whether to approve, modify or reject, in whole or in part, a proposed filing by Orange and Rockland Utilities, Inc. to effectuate the change to Public Service Law Section 66-j in relation to net metering for micro-combined heat and power generating systems. The New York State Standardized Interconnection Requirements (SIR) document would also be modified to incorporate the updates to PSL 66-j in relation to net metering for micro-combined heat and power generating systems. The proposed amendments have an effective date of February 26, 2010.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.state.ny.us/f96dir.htm>. For questions, contact: Leann Ayer, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: leann_ayer@dps.state.ny.us

Data, views or arguments may be submitted to: Jaclyn A. Brillling, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: Secretary@dps.state.ny.us

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(09-E-0834SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Deferral of Incremental Electric and Gas Net Write-Off Expense

I.D. No. PSC-50-09-00012-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Public Service Commission is considering a petition filed by Central Hudson Gas & Electric Corporation to defer for future recovery with carrying charges, \$2.339 million electric bad debt write-off expense and \$447,000 of gas write-off expense.

Statutory authority: Public Service Law, sections 4(1) and 66(1)

Subject: Deferral of incremental electric and gas net write-off expense.

Purpose: Consideration of petition by Central Hudson Gas & Electric Corporation to defer for future recovery bad debt expense.

Substance of proposed rule: The Commission is considering whether to approve, modify or reject, in whole or in part, a petition filed by Central Hudson Gas & Electric Corporation to defer for future recovery with carrying charges, \$2.339 million electric bad debt write-off expense and \$447,000 of gas write-off expense.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.state.ny.us/f96dir.htm>. For questions, contact: Leann Ayer, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: leann_ayer@dps.state.ny.us

Data, views or arguments may be submitted to: Jaclyn A. Brillling, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: Secretary@dps.state.ny.us

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(09-M-0788SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Authorization to Transfer an Easement in Certain Real Property

I.D. No. PSC-50-09-00013-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Public Service Commission is considering whether to authorize the transfer of an easement in certain real property in Queens County to Astoria Energy II LLC regarding the substation easement.

Statutory authority: Public Service Law, section 70

Subject: Authorization to transfer an easement in certain real property.

Purpose: To decide whether to approve the transfer of an easement in certain real property.

Substance of proposed rule: By joint petition dated October 6, 2009, Astoria Energy II LLC and Consolidated Edison Company of New York, Inc. seek authorization pursuant to Section 70 of the New York Public Service Law to transfer an easement in certain real property in Queens County to Astoria Energy II LLC regarding the substation easement. The Commission is considering whether to approve or reject, in whole or in part, the petition.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.state.ny.us/f96dir.htm>. For questions, contact: Leann Ayer, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: leann_ayer@dps.state.ny.us

Data, views or arguments may be submitted to: Jaclyn A. Brillling, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: Secretary@dps.state.ny.us

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(09-M-0745SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Authorization to Transfer an Easement in Certain Real Property

I.D. No. PSC-50-09-00014-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Public Service Commission is considering whether to authorize the transfer of an easement in certain real property in Queens County to Astoria Energy II LLC regarding the overhead run.

Statutory authority: Public Service Law, section 70

Subject: Authorization to transfer an easement in certain real property.

Purpose: To decide whether to approve the transfer of an easement in certain real property.

Substance of proposed rule: By joint petition dated October 6, 2009, Astoria Energy II LLC and Consolidated Edison Company of New York, Inc. seek authorization pursuant to Section 70 of the New York Public Service Law to transfer an easement in certain real property in Queens County to Astoria Energy II LLC regarding the overhead run. The Commission is considering whether to approve or reject, in whole or in part, the petition.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.state.ny.us/f96dir.htm>. For questions, contact: Leann Ayer, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: leann_ayer@dps.state.ny.us

Data, views or arguments may be submitted to: Jaclyn A. Brillling, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: Secretary@dps.state.ny.us

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(09-M-0746SA1)