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March 11, 2026

VIA NYSCEF & E-MAIL

Honorable James R. Farrell
Acting Supreme Court Justice
Supreme Court of the State of New York
414 Broadway
Monticello, New York 12701
jfarrellchambers@nycourts.gov

RE: Mack, et al. v. New York State Public Service Commission, et al.
Index no. 901525-26

Dear Justice Farrell:

We represent Respondents L+M Development Partners LLC, C&C Apartment Management LLC, Heritage Holdings LLC, River Crossing Owner LLC, Roosevelt Landings Owner LLC, and Miles Parker Owner LLC (collectively “Respondents”) in this proceeding. The last four listed respondents own certain apartment buildings in New York City (collectively, the “Owner Respondents”) and were authorized by the New York Public Service Commission (“PSC”) to submeter plug-load electricity to their tenants. That PSC approval order is the subject of the instant proceeding.

We write briefly to respond to Petitioners’ March 9, 2026 letter, which contains several demonstrably false and unsubstantiated claims. First, Petitioners assert that the PSC failed to set an appropriate rate cap for the submetered electricity charges at the buildings. This is false. As explained in Respondents’ briefing on the pending motions, the PSC has established a uniform submetering “rate cap” by regulation, which is “the rates and charges of the distribution utility [here, Consolidated Edison] for delivery and commodity in that billing period to similarly situated, direct metered residential customers [here, the Consolidated Edison Service Classification No. 1 or SC-1 rate]” (*see* Respondents’ Memorandum of Law [Resp. MOL], at 18; Curley Aff. ¶22; Resp. Reply MOL, at 9-10 [NYSCEF Doc. Nos. 27, 29, 59]). The five submetered electric bills Petitioners submitted along with their March 9th letter confirm that the tenants of the buildings are being charged the same SC-1 rate that direct-metered residential customers in New York City pay Consolidated Edison (*see* reference to “SC-1 Charge” Under “Charges”).

Second, Petitioners assert – without substantiation – that tenants are being charged a rate higher than the Consolidated Edison SC-1 rate. This is also false, which is evident when the bills are confirmed through an online tool available to submetered tenants to determine whether they are being charged the correct rate. <https://www.coned.com/en/accounts-billing/your-bill/rate-calculators/submetering-bill-calculator> The PSC required Consolidated Edison to create this “Sub-Metering Bill Calculator” to, among other things, empower “submetered residential end-users to discern if they are being billed at no higher than the rate-cap” and to “facilitate resolution of billing disputes.” (*see* Order Authorizing Commercial Submetering and Requiring Rate Cap

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Bill Calculator [dated Feb. 20, 2013] at 4-5). In each instance here, the Calculator confirms, using the consumption of electricity in kilowatt hours (“kWh”) (shown on the upper left of the second page of each bill) and the billing period, that the tenants’ bills are consistent with the amount Consolidated Edison charged its residential customers during the same time frame. In fact, the Calculator shows that the monthly Consolidated Edison charges are marginally *higher* than that actually billed by the Owner Respondents, thereby demonstrating the tenants’ bills do not exceed the PSC’s rate cap for the relevant time period.

Third, Petitioners now assert that the Owner Respondents may be charged an excessive interest rate for unpaid submetered electric balances. This is also false (and irrelevant to the propriety of the PSC approval order). The amount of permissible monthly interest is determined by PSC regulation and is currently 1.5% per month (*see* 16 NYCRR § 11.15 [a]), precisely the charge identified on the attached bills.

It bears mention that, while the Owner Respondents have complied with the rate cap and interest rate, a billing error based on either requirement would not be a basis to retroactively invalidate the PSC approval order. As explained in Respondents’ submissions (Resp. MOL, at 10, NYSCEF Doc. No. 59), the PSC continues to regulate submeterers after approval and may sanction them for noncompliance with rate cap or other regulatory requirements. To that end, the PSC provides tenants with a ready means of lodging complaints free of charge, merely by completing an on-line form (complaints can also be lodged by telephone, mail, or in person) (Resp. MOL, at 10, n7, NYSCEF Doc. No. 59). As a result, any tenants with valid and specific complaints about their submetered bills here may seek relief from the PSC.

Finally, the Petitioners continue to assert without basis that tenants that fail to timely pay submetered electric bills face the risk of eviction. This is also false. As the Respondents have repeatedly explained, since 2012, the PSC has explicitly stated that unpaid electricity charges are not “additional rent” and may not be a basis for eviction (*see* Resp. MOL, at 20; Resp. Reply MOL, at 8).

The Respondents appreciate the opportunity to clarify the facts and to direct the Court’s attention to relevant portions of the record in this proceeding.

Respectfully Submitted,

Rachel K. Marcoccia

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cc: All Counsel of Record