

**Consolidated Edison Company of New York, Inc.**

**M29 Transmission Line Project**

**Exhibit 7**

**Local Ordinances**

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## **EXHIBIT 7: LOCAL ORDINANCES**

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This Exhibit addresses the requirements of 16 NYCRR §86.8.

### **7.1 Introduction**

This Exhibit identifies the local ordinances deemed applicable or potentially applicable to the construction and operation of the M-29 Transmission Line Project. Under Public Service Law (“PSL”) §130, no municipality or agency thereof that has received notice of the filing of an Article VII application may require any approval, consent, permit, certificate, or other condition for the construction or operation of a major facility with respect to which an application for an Article VII certificate has been issued.

As a regulated public utility, Con Edison possesses franchises under the New York State Transportation Corporations Law to install electric facilities in, over, or under the streets, highways, and public places of the Cities of New York and Yonkers, subject to municipal approval. Con Edison has such approval under franchises granted by the Cities of New York and Yonkers for the use of city streets for placement of these facilities, subject to local regulations, e.g., the New York City Department of Transportation (“NYCDOT”) regulations for street openings, designed to mitigate the impact of such placements on the community. Subject to the Commission’s ongoing authority, Con Edison will seek the local regulatory permits for the placement of Project electric facilities at its substation properties, in city streets, or other public rights-of-way that would be issued by the NYCDOT, the New York City Department of Buildings, the Westchester County Department of Public Works, and the Yonkers Department of Engineering in the absence of PSL §130. With the exception of specified local laws or regulations noted in bold and described below, for which waivers are being requested from the Public Service Commission, the Project will comply with the substantive requirements of all applicable local laws, rules and regulations.

The following local ordinances were reviewed:

- **Westchester County Code**
- **Code of the City of Yonkers**
- **New York City Administrative Code**
- **Rules of the City of New York**
- **New York City Zoning Resolution**

## 7.2 Westchester County Code

### Chapter 693 – Water Conservation

§693.11        *Restricts water usage during droughts*

### Chapter 712 – Use of County-Owned Property

§712.191       *Prohibits the disturbance of any County-owned property*

§712.311       *Prohibits disturbance of trees, shrubs, and grass*

§712.314       *Prohibits disturbance of certain trees*

§712.475       *Prohibits vehicle idling*

§712.531       *Prohibits stopping and parking vehicles in certain areas*

### Chapter 803 – Construction of Buildings and Structures

§803.21        *Imposes conditions on driveways and traffic*

§803.31        *Imposes drainage requirements*

§803.41        *Imposes roadway requirements*

### Chapter 813 – Road Construction Specifications

§813.51        *Imposes conditions on work*

§813.71        *Restricts storage of material on County roads to 20 percent of area or 100 feet in length.*

***The Project will Con Edison to meet and support expected electric load growth in portions of Westchester County, the Bronx and Manhattan, as reflected in Con Edison’s most recent ten-year load forecast. In an effort to complete the Project expeditiously to ensure that the required improvements are in place by summer 2008, Con Edison will seek to install over 100 feet of transmission line per day, potentially requiring storage of materials in an area exceeding 100 feet in length. Allowing storage in excess of 100 feet will promote the rapid completion of construction and minimize impacts on traffic. To ensure safe and adequate traffic operations along County roads during construction, Con Edison will implement a Maintenance and Protection of Traffic Plan. Accordingly, Con Edison believes that this Westchester Code section is unduly restrictive and requests that its application be waived.***

§813.81        *Imposes conditions on use of construction equipment*

§813.91        *Prohibits damage to trees*

§813.101       *Regulates curb cuttings*

### 7.3 Code of the City of Yonkers

#### Chapter 103, Article IV Street Openings and Excavations

- §103-26 *Permit required*
- §103-27 *Use of power equipment*
- §103-28 *Excavations*
  - i. *width of trench*
  - ii. *excavated materials*
- §103-29 *Backfill*
- §103-30 *Sheeting, shoring and bracing*
- §103-31 *Protection of structures and property*
- §103-32 *Temporary restoration*
- §103-33 *Cutting and restoring pavement*
- §103-34 *Schedule of deposits and fees*
- §103-35 *Method of payment; refund of deposit*
- §103-36 *Insurance and bonds*
- §103-37 *Emergency cuts*
- §103-38 *Responsibility of person doing work*
- §103-39 *Lighting of obstructions*
- §103-40 *Barriers and lighting around excavations*
- §103-41 *Protection of asphalt pavement*
- §103-42 *Laying of gas mains or conduits --This section provides that no permit shall be granted for the opening or excavating of any street, sidewalk or public place for the purpose of ...running conduits exceeding 100 feet in length through and along such street, sidewalk or public place until the City Council shall have, by ordinance, permitted the laying of said ...conduits.*

*A waiver of this requirement is requested for the following reasons:*

*The Project would allow Con Edison to increase power imports into New York City by approximately 300 megawatts, enhancing electric system reliability and meeting anticipated near-term load demand in portions of the Bronx and upper Manhattan. Con Edison will seek to install over 100 feet of transmission line, which would require Yonkers City Council approval. Such approval(s) would be burdensome, time-consuming and an unnecessary procedural requirement, which would be in addition to the existing technical and engineering permitting by the Yonkers Department of Engineering, and subsumed by the Commission's ongoing jurisdiction under Article VII and the associated environmental management and construction plan approvals following from certificate issuance. As previously noted, Con Edison intends to comply fully with the technical and substantive requirements of the Yonkers Code applicable to street openings and excavations as required by the Department of Engineering. In light of the Commission's ongoing*

*jurisdiction under Article VII, Con Edison believes that this Yonkers Code section is unduly restrictive, and requests that its application be waived.*

§103-43      *Special conditions*

Chapter 66, Article I                  Noise – General Provisions

§66-1            *Findings and declarations*  
§66-3            *Noise disturbance prohibited*  
§66-4.F         *Enumeration of prohibited noises – construction equipment*  
§66-5            *Prima facie evidence of noise disturbance*  
§66-6            *Exemptions*  
Table 1         *Maximum permissible sound level limits*

Chapter 66, Article III              Noise – Permit for Use of Sound Producing Devices

§66-17         *Permit required*

Chapter 43, Article VII              Special Use Permits

§43-50         *Special use permits required*  
§43-51         *Approval agencies*  
§43-54         *Decision on a special use permit application*  
§43-55         *Referral and approval by the Yonkers City Council*  
§43-60         *General standards for special use permit applications*

*These sections of the Yonkers Code contemplate the need for a special use permit from the Yonkers Planning Board, effective upon approval from the Yonkers City Council, and require another special use permit for any changes in the use or site plan of a use of land, buildings or structures previously approved by special use permit. The regulations also set forth general standards for review of special use permit applications.*

*A waiver of these requirements is requested for the following reasons:*

*The Project would allow Con Edison to increase power imports into New York City by approximately 300 megawatts, enhancing electric system reliability and meeting anticipated near-term load demand in portions of the Bronx and upper Manhattan. Con Edison will need to make equipment changes and additions at its Sprain Brook Substation, which would require Yonkers Planning Board and City Council approvals. Such approval(s) would be burdensome, time-consuming and an unnecessary procedural requirement, and would duplicate the environmental compatibility, aesthetic, and public need reviews required*

*for certificate issuance under PSL Article VII and the associated environmental management and construction plan approvals following from certificate issuance. As previously noted, Con Edison intends to comply fully with the technical and substantive requirements of the Yonkers Code applicable to utility substations. In light of the Commission's ongoing jurisdiction under Article VII, Con Edison believes that these Yonkers Code sections are unduly restrictive, and requests that their application be waived.*

§43-73N *Special use permit requirements for certain public institutional uses (Utility substations)*

Chapter 43, Article IX      Site plan review

§43-94 *Site plan approval required*  
§43-95 *Approval agency*  
§43-105 *Standards of review for site plan approval*

*These sections of the Yonkers Code contemplate the need for site plan review conducted by the Yonkers Planning Board in accordance with general standards of review.*

*A waiver of these requirements is requested for the following reasons:*

*The Project would allow Con Edison to increase power imports into New York City by approximately 300 megawatts, enhancing electric system reliability and meeting anticipated near-term load demand in portions of the Bronx and upper Manhattan. Con Edison will need to make equipment changes and additions at its Sprain Brook Substation that would require Yonkers Planning Board site plan approvals. Such approval(s) would be burdensome, time-consuming and an unnecessary procedural requirement, and would duplicate the environmental compatibility, aesthetic, and public need reviews required for certificate issuance under PSL Article VII and the associated environmental management and construction plan approvals following from certificate issuance. As previously noted, Con Edison intends to comply fully with the technical and substantive requirements of the Yonkers Code applicable to utility substations. In light of the Commission's ongoing jurisdiction under Article VII, Con Edison believes that these Yonkers Code sections are unduly restrictive, and requests that their application be waived*

§43-121 *Site plan design standards*

## **7.4 New York City Administrative Code**

### *Subchapter 4, Prohibited Noise; Unreasonable Standard*

- §24-224      *Construction activities*
- §24-226      *Containers and construction material*

### *Subchapter 6, Ambient Noise Quality Zones, Criteria and Standards*

- §24-243      *Ambient noise quality zones, criteria and standards*
- §24-244      *Allowable sound levels*

## **7.5 Rules of the City of New York**

### *Title 34, Section 2-11 Street Openings and Excavations*

- (a) Street Opening Permit required*
- (b) Permit requirements*
- (c) Conditions regarding notice and specifications*
- (d) Application requirements*
- (e) Excavation and Restoration requirements*
  - a. Proper notice*
  - b. Breaking existing pavement*
  - c. Excavation*
  - d. Traffic maintenance*
  - e. Flagpeople*
  - f. Temporary sidewalk closings*
  - g. Work site maintenance*
  - h. Materials storage*
  - i. Backfill and compaction*
  - j. Temporary asphaltic pavement*
  - k. Plating and decking*
  - l. Base specifications*
  - m. Wearing course*
  - n. Concrete pavements*
  - o. Color coding*
  - p. Quality control program requirements for roadways*
  - q. Other requirements*
- (f) Excavations and street openings in protected streets*
  - a. Permit issuance*
  - b. Conditions*
  - c. Application*
  - d. Restorations*
- (g) Emergency street openings and excavations*
  - a. Permit requirements*

- b. Conditions*
- c. Application*

## **7.6 New York City Zoning Resolution**

### *Article IV – Manufacturing District Regulations – Chapter 1- Statement of Legislative Intent*

- §42-21 Performance Standards Regulating Noise*
- §42-213 Maximum permitted decibel levels*
- §42-214 Special provisions lying along district boundaries*