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Hon, Jaclyn A. Brillling
Secretary
NYS Public Service Commission
Three Empire State Plaza
Albany, N. Y. 12223-1350

**Re: Case 09-E-0428 – Consolidated Edison Company of New York, Inc.,
Rate Ready Utility Consolidated Billing Model**

Dear Secretary Brillling:

These comments are submitted on behalf of the Retail Energy Supply Association ("RESA")¹ in response to the Report dated April 29, 2011 submitted in this proceeding on behalf of Consolidated Edison Company of New York, Inc. ("Con Edison" or "Company").

In the Joint Proposal approved in this proceeding by Order of the Commission dated March 26, 2010 issued in Case 09-E-0428, the parties, *inter alia*, agreed to establish a collaborative "to consider modifications that may be necessary to the Rate Ready Utility Consolidated Billing Model to enable Energy Service Companies to offer and bill for products which reflect time of use, interval and real time pricing, as well as to offer multiple rate components, such as demand, on peak, and off peak usage" ("Rate Ready Billing Collaborative" or the "Collaborative").² Under the terms of the Joint Proposal, the Collaborative was to commence in December 2009 with a view to completion within eight months. If an agreement

¹ RESA's members include: Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energetix, Inc.; Energy Plus Holdings, LLC; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Green Mountain Energy Company; Hess Corporation; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; MXenergy; NextEra Energy Services; Noble Americas Energy Solutions LLC; PPL EnergyPlus, LLC; Reliant Energy Northeast LLC and TriEagle Energy, L.P.. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA

² Case 09-E-0428, Joint Proposal at pp. 58-9

was reached, a joint proposal reflecting the agreement of the parties would be filed with the Commission for its review and approval.

In accordance with the Joint Proposal, various meetings and conferences were held between Con Edison and interested parties beginning in December 2009. During those meetings and in written materials subsequently distributed by the Company and parties, the Company provided participants with information on the Company's existing Rate Ready Billing Model, along with a description of Con Edison's various customer account billing methodologies by Service Classification, and the ESCO parties provided information concerning the enhancements that were needed to the Company's rate ready model. In addition, the parties exchanged various proposals concerning potential modifications to the existing billing system.

Nonetheless, the parties failed to achieve agreement regarding the appropriate modifications to the Company's Rate Ready Billing Model.

In the Report, the Company provides a fair summary of the procedural aspects of the Collaborative and the specific proposals presented by the parties, and it correctly notes that despite "the parties' diligent efforts, no agreement was reached regarding modifications to the Company's Rate Ready Billing Model, including whether customers or ESCOs should bear the cost of such modifications."³ There are, however, several areas that require further elucidation and clarification in order to provide the Commission with a complete picture of what transpired in the Collaborative.

A critical goal of the Collaborative, especially from the perspective of the ESCO community, was to enable ESCOs to provide the general customer base with hourly or real time pricing. However, in this crucial area Con Edison merely proposed to *consider* enabling ESCOs "to supply non-demand billed customers with on-peak and off-peak commodity rates for customers taking service under Rate II (voluntary time-of-day ("TOD") rates) of Service Classification Nos. 1, 2, and 7."⁴ This limited suggestion suffered from a number of material deficiencies.

First, it entirely ignores the concept of allowing ESCOs to bill customers on an hourly or real time basis. Instead, ESCOs would be limited to offering only a single on-peak/off-peak rate without any reflection of more time sensitive pricing. It was in the view of the ESCOs unreasonable to omit a fundamental issue that was to be examined in this Collaborative. In addition, it was inconsistent with the on-going efforts to provide a larger swath of customers with hourly pricing.

Second, even the time-of-use proposal posited by the Company was significantly limited. It would exclude the entire body of demand-billed customers and only apply to a small subset of customers that take voluntary TOU service under SC 1, 2, and 7. This effectively narrows the universe of eligible customers to a relatively small number.

³ Report, p. 1.

⁴ Report, p.2

Third, it does not address the fundamental systemic issue that under the Rate Ready model the ESCO cannot view the customer's actual usage during the billing cycle prior to the submission of a rate.⁵ In this regard, the Company merely indicated its willingness to consider reducing from four days to two days the minimum period for Con Edison's acceptance of the ESCO's submission of commodity prices.⁶ However, even under this scenario the ESCO would need to submit the commodity rate prior to receiving and reviewing the actual billing data for the period.

Moreover, except for its willingness to shorten the length for the submittal of pricing data, Con Edison never agreed to make any specific modifications to its billing system. Instead, Con Edison first requested that a costly study⁷ funded by the ESCOs would be undertaken to determine whether any of the contemplated system changes would in fact be implemented.⁸ In other words ESCOs would first have to pay at least \$125,000 merely to initially determine what, if any, modifications would be undertaken. This would not reflect the additional cost associated with actually implementing any modifications. Needless to say this was not an enticing economic proposition.

Con Edison further advised the parties that it was only amenable to an "all or nothing" approach that is it would not proceed with any modifications that it found acceptable until full agreement was reached on all the changes that would be made.⁹ This in effect held simple measures like changing the due date for submission of pricing hostage to agreement on how real time pricing would be implemented. The Company effectively took the position that if the ESCOs wanted to see implementation of the initial measures that Con Edison and the ESCOs viewed favorably¹⁰ they would need to give up on their proposal to be able to offer real time billing. Once again this was unacceptable to the interested ESCO parties.

In the Report, the Company indicates that is "was open to pursuing the initiatives upon which consensus was reached", but it would not move forward until it knew all the changes that would be made.¹¹ Realistically, this means that no substantive action will be undertaken until either there is full agreement between Con Edison and the ESCOs --- which consensus does not, at this time, exist --- or the Commission directs the Company to implement a particular series of measures. The specific proposals offered by Con Edison would preclude ESCOs from providing customers with the products and services they desire.

⁵ Under the Bill Ready model, the ESCO provides a completed bill to the utility *after* it has been provided with the customer's actual usage for the entire billing period. Under the Rate Ready model the ESCO must provide the billing rate for the billing cycle *prior* to receiving the actual usage data for the billing period.

⁶ Report, p. 2.

⁷ The initial estimate was at least \$125,000 for external costs (Report, p. 3).

⁸ *Id.*

⁹ Report, 2, 5)

¹⁰ Generally included on the "First List" in the Report (Report, p. 2).

¹¹ Report, pp. 4-5

Under these circumstances, RESA respectfully requests that the Commission direct that this matter move forward in a more formal manner either in this proceeding or under a new proceeding with the goal of having this matter resolved by a final determination of the Commission.

Respectfully submitted,

Retail Energy Supply Association

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