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BY EMAIL ONLY

Hon. Michelle L. Phillips
Secretary to the Commission
New York State Public Service Commission
Agency Building 3
Albany, NY 12223-1350

15-E-0751– In the Matter of the Value of Distributed Energy Resources.

NYECC's and MTA's Comments Regarding Joint Utilities Proposed Changes to Standby and Buyback Rate Design

Dear Secretary Phillips:

Pursuant to your Notice Announcing Technical Conference and Establishing Comment Period, issued on July 6, 2021, in the above referenced matter, with initial comments due by August 6, 2021, and Notice Extending Comment Period, dated August 5, 2021, extending the comment period until August 20, 2021, please consider this letter as the written comments of the New York Energy Consumers Council, Inc. (“NYECC”) and the Metropolitan Transportation Authority (“MTA”) (the “Commenting Parties”). The NYECC and its predecessor organizations¹ have represented the energy interests of commercial property owners and managers in New York City before State agencies for nearly 70 years. NYECC also continues to represent institutions such as hospitals, colleges, governmental agencies, financial institutions, industrials, and real estate organizations. NYECC's membership includes landmark member properties such as 7 World Trade Center

¹ The Owners' Committee on Electric Rates (OCER) and The New York Energy Buyers Forum (NYEBF).

and Rockefeller Center. The MTA and its subsidiary and affiliate agencies (collectively with MTA, the “MTA Group”) operate North America’s largest public transportation network, serving a population of 15.2 million people in the 5,000 square mile area fanning out from New York City through Long Island, southeastern New York State and Connecticut (“MTA Service Area”). The MTA Group includes MTA New York City Transit, MTA Long Island Rail Road, MTA Metro-North Railroad, MTA Bridges and Tunnels, MTA Staten Island Railway, MTA Capital Construction Company and MTA Bus Company.

The MTA Group operates more subway and commuter rail cars than the rest of the country’s subways and railroads combined. It is a high-volume electric consumer in the Con Edison service territory that relies upon electricity for many of its operations to serve the public. The MTA purchases its power from NYPA, who in turn purchases delivery service from Con Edison under Service Classification PASNY 12.

The Commenting Parties appreciate the opportunity to comment on the issues discussed at the July 22, 2021 Technical Conference regarding the proposal by the Joint Utilities of New York (“Joint Utilities”), which includes Consolidated Edison Company of New York, Inc. (“Con Edison”) related to the Whitepaper on Allocated Cost of Service (ACOS) Methods Used to Develop Standby and Buyback Service Rates, jointly filed by Staff and New York State Energy Research and Development Authority Staff on November 25, 2020 in this proceeding², as well as the additional information and documents filed by the Joint Utilities subsequent to the Technical Conference on July 29, 2021.

The foundational element that began this activity was to develop optional rates that would offer time differentiated pricing to *inter alia* “improve the accuracy and consistency of cost allocations underlying the Standby Service rates through the required development by each utility of an ACOS methodology, which will provide parameters for periodic review of the allocations of costs between a local basis or a shared basis.”³

² 15-E-0751 – In the Matter of the Value of Distributed Energy Resources, Whitepaper on Allocated Cost of Service Methods Used to Develop Standby and Buyback Rates, dated November 25, 2020.

³ 15-E-0751 – In the Matter of the Value of Distributed Energy Resources, Order on Standby and Buyback Service Rate Design and Establishing Optional Demand-Based Rates, issued May 16, 2019, at 3.

Customers that can manage their load profile will reduce their overall costs and all customers will “share” in benefits of reduced capital needed to meet peak use. These rates, if designed appropriately, will encourage a higher load factor across the span of an operating day thereby reducing peak usage and resulting in a reduced need to continue to build underutilized infrastructure to meet an unbridled peak load. It is our understanding that the Commission is authorizing these rates to be “optional” for all customer classes irrespective of whether or not the customer has some level of generation on site. There is a “Risk versus Reward” aspect to this type of rate design, and several have commented that we need to ensure that rate design does not intentionally pick winners over losers. Nonetheless, these optional rates will lower peak power demand and the benefits of these reductions in costs will be shared collectively across all customer classes.

The Commenting Parties agree with Staff’s Whitepaper to base the development of these proposed rates under an ACOS model. The Commenting Parties also agree with the Commission that the goal of the process is to produce a relatively consistent approach across utilities, which will not necessarily exclude consideration of approaches that may rely on marginal costs or alternative embedded cost studies.⁴ The Joint Utilities allocated costs among Shared, Local and Customer categories in their ACOS filings. It was Staff’s directive that Customer charges should not change and that an ACOS Decision Tree should be developed to help allocate the costs associated with Local and Shared costs. The Commenting Parties agree that the ACOS Decision Tree should be reexamined periodically either as part of individual utility rate cases, or more frequently such as on an annual basis. The Commenting Parties support the ACOS proposed Decision Tree components including that high load factor customers with a significant draw on peak and super peak times will pay higher daily as used demand charges relative to other customers not drawing on peak and super peak times.

The July 22nd Technical Conference presentation and the additional documentation provided after the Technical Conference on July 29 raise concerns that the Joint Utilities are deviating significantly from what the Commission has previously ordered and what Staff has proposed in its Whitepaper.

⁴ Id. at 28.

The Joint Utilities state the main issue in this proceeding is the allocation of costs between local and shared.⁵ In the rate structure, this correlates to Contract Demand and Daily-As-Used Demand, respectively. The portion of this allocation concerning Contract Demand is at the root of customers' complaints going back decades and their continuing requests for an improved standby rate structure that is better because it is objectively determined and analytically based thereby creating a cost-based balance between local and shared costs.

The Joint Utilities are overly concerned that the Whitepaper's allocator "virtually eliminates contract demand for high tension customers."⁶ This need not be a concern at all if the cost-based balance between local and shared costs is objectively and analytically determined as proposed in Staff's Whitepaper. It is not clear whether this is actually a concern for all of the utilities comprising the Joint Utilities, but it certainly appears to be a concern for Consolidated Edison Company of New York, Inc. ("Con Edison"), which provided examples during the July 22nd presentation for certain of its rate classes.⁷ Nonetheless, the Joint Utilities have attempted to address this concern of Con Edison's and perhaps other utilities by fabricating an alternative allocator with a rigid and unnecessary limitation by applying it only at the customer's connection voltage.⁸

Based upon the Joint Utilities articulated concern, the Joint Utilities' proposal seems to have been designed to specifically alter the beneficial effect to high tension customers of the lower local costs allocation as proposed by Staff's Whitepaper. This, of course, is discriminatory in nature and not the proper means for designing an objective standby rate structure because it is a methodology designed to instead attain a particular predetermined outcome for a particular service class.

This predetermined outcome proposal is further confirmed with the strained approach taken by the Joint Utilities, which is tailored to such an extent that the sought after objective Decision Tree becomes something else, namely, it becomes its opposite instead, a Non-Decision Tree whose outcomes are not only not objectively arrived at, but which have been dictated by the predetermined, subjective wishes of the Joint Utilities. The chart of the "Decision" Tree provided

⁵ Joint Utilities of New York' Standby ACOS Allocation Proposal, date July 22, 2021, at 2.

⁶ *Id.* at 3.

⁷ *Id.* at 6-11.

⁸ *Id.* at 4.

with the narrative requested by NYECC at the Technical Conference confirms this in highlighting a singular and inflexible path through the “Decision” Tree that illustrates the steps necessary to effectuate the alternate allocator with no decision allowed to be made on the “Decision” Tree that deviates at all from the predetermined path proposed and previously decided upon by Con Edison.⁹ Such an approach renders the Decision Tree meaningless as an analytical tool.

While the Joint Utilities approach appears to be that of reaching a compromise by bridging the gap between current allocations in rates and those proposed in Staff’s Whitepaper, the mere attempt to reach a compromise in this instance undermines the type of objective analysis that has long been sought after by customers. Notwithstanding the Joint Utilities attempt for compromise and any improvements to the allocations from current cost allocations between local and shared in the Joint Utilities proposal, the Joint Utilities approach does in fact seek to maintain a form of non-objective analysis going forward which maintains the *status quo* in that rates are determined by agreement as was done in the past and not by objective analysis as the current exercise requires. The Commenting Parties strongly disagree with this Joint Utilities approach because it is not truly based on a Decision Tree and is not based upon a truly objective analytical approach that can be applied to all utilities in designing updated and more accurate standby rates. The Commenting Parties agree with the Staff Whitepaper’s approach that “FERC account level cost classification provides a sufficient level of granularity as well as a consistent approach for all utilities.”¹⁰

It is also worth noting that although the pie charts for the Con Edison Service Classes provided in the July 22nd Joint Utilities proposal does keep Customer Charges constant at 4% of total costs, the Con Edison work papers filed on July 29 regarding the Con Edison proposed standby rates for the Alternate Allocator Methodology, to the contrary, do not abide by Staff’s and the Commission’s directive that Customer Charges should not change.¹¹ In Service Class after Service Class, the monthly Customer Charges, including for the NYPA Service Classes

⁹ Con Edison’s Narrative on Standby ACOS Allocation Proposal, dated July 29, 2021, at 3-4.

¹⁰ 15-E-0751 – In the Matter of the Value of Distributed Energy Resources, Whitepaper on Allocated Cost of Service Methods Used to Develop Standby and Buyback Rates, dated November 25, 2020, at 18.

¹¹ Id. at 8.

depicted in the Con Edison workpapers, have more than doubled as indicated below:¹²

<u>Service Class</u>	<u>Present</u>		<u>Proposed</u>	
	<u>Winter</u>	<u>Summer</u>	<u>Winter</u>	<u>Summer</u>
SC8 Rate IV LT	\$356.44	\$356.44	\$763.78	\$763.78
HT	\$356.44	\$356.44	\$763.78	\$763.78
Rate V LT	\$1,315.71	\$1,315.71	\$2,821.77	\$2,821.77
HT	\$1,315.71	\$1,315.71	\$2,821.77	\$2,821.77
SC9 Rate IV LT	\$126.87	\$126.87	\$263.17	\$263.17
HT	\$126.87	\$126.87	\$263.17	\$263.17
SC9 Rate V LT	\$1,874.52	\$1,874.52	\$3,170.22	\$3,170.22
HT	\$1,874.52	\$1,874.52	\$3,170.22	\$3,170.22
SC12 Rate IV LT	\$163.48	\$163.48	\$496.08	\$496.08
HT	\$163.48	\$163.48	\$496.08	\$496.08
Rate V LT	\$724.57	\$724.57	\$1,213.62	\$1,213.62
HT	\$724.57	\$724.57	\$1,213.62	\$1,213.62
NYPA Rate III LT	\$281.33	\$281.33	\$478.16	\$478.16
HT	\$281.33	\$281.33	\$478.16	\$478.16
NYPA Rate IV LT	\$611.61	\$611.61	\$4,529.99	\$4,529.99
HT	\$611.61	\$611.61	\$4,529.99	\$4,529.99

Contract Demand is similar to a fixed customer charge, except that it is fixed relative to each customer. Con Edison appears to be increasing the fixed aggregate Customer Charge to compensate for the reduction it is providing in the Contract Demand in its workpapers. However, by increasing the Customer Charge in its proposed standby rates, and not allowing it to stand as a constant for analytical purposes, Con Edison is preventing a more accurate assessment of the true differences between its proposed Contract Demand and its proposed Daily As-Used Demand in its proposed standby rates for the Alternate Allocator Methodology.

The Commenting Parties continue to believe the rules around Contract Demand need to be simple with a customer's individual Contract Demand, for those

¹² Con Edison work papers for Con Edison's proposed rates for the Alternate Allocator Methodology, dated July 29, 2021.

accounts that opt for the utility to base their contract demand on their past two-year peak history, being updated more frequently, ideally annually. This would remove the “fixed” aspect to this rate component and better encourage customers to keep their historic peak lower.

The July 22nd Technical Conference and the documents provided on July 29 do not address how the Joint Utilities would treat any exemption for a Buyback Service Contract Demand charge for energy storage systems exporting electricity to the electric grid. The bill impacts on other customers for this exemption, need to be transparently provided in order for the Commission to ascertain the appropriate duration for such an exemption.

The Commenting Parties looks forward to Commission action to further lower contract demand charges for customers from those currently in place once a uniform and consistent approach across utilities is implemented on the sharing and local costs designations to finally result in a more correct level for contract demand charges for standby rates. The Commenting Parties thank the Commission for its receptivity to an improved standby rates methodology based on a better attribution of cost causation consistent with Staff’s Whitepaper which will thereby result in improved upon just and reasonable rates for utilities customers in general and for standby-rate customers in particular.

Thank you for the opportunity to provide our comments to you regarding these timely and very important issues.

Sincerely,
/s/ George Diamantopoulos
George Diamantopoulos
Counsel for the NYECC

cc: Active Parties (By Email Only)