VIA ELECTRONIC DELIVERY

March 5, 2018

Honorable Kathleen H. Burgess, Secretary
New York State Public Service Commission
Three Empire State Plaza, 19th Floor
Albany, New York 12223-1350

RE: Case 15-E-0751 – In the Matter of the Value of Distributed Energy Resources

Case 15-E-0082 – Proceeding on Motion of the Commission as to the Policies, Requirements, and Conditions for Implementing a Community Net Metering Program

Matter 17-01278 – In the Matter of the Value of Distributed Energy Resources Working Group Regarding Low and Moderate Income Customers

JOINT UTILITIES’ RESPONSE TO STAFF REPORT ON LOW-INCOME COMMUNITY DISTRIBUTED GENERATION PROPOSAL

Dear Secretary Burgess:

Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., Central Hudson Gas & Electric Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, New York State Electric & Gas Corporation, and Rochester Gas and Electric Corporation (collectively, the “Joint Utilities”) hereby submit comments on the Staff Report on Low-Income Community Distributed Generation Proposal filed on December 15, 2017 by the New York Department of Public Service Staff in the subject proceedings.

If you have any questions regarding this filing, please contact me. Thank you.

Respectfully Submitted,

/s/ Janet M. Audunson

Janet M. Audunson, P.E., Esq.
Senior Counsel II

Enc.

cc: Michael Insogna, DPS Staff, w/enclosure (via electronic mail)
Denise Gerbsch, DPS Staff, w/enclosure (via electronic mail)
Michael Summa, DPS Staff, w/enclosure (via electronic mail)
JOINT UTILITIES’ RESPONSE TO STAFF REPORT ON LOW-INCOME COMMUNITY DISTRIBUTED GENERATION PROPOSAL

I. Introduction

On December 15, 2017, the New York Department of Public Service Staff (“Staff”) issued a *Staff Report on Low-Income Community Distributed Generation Proposal* (“Staff Report”).¹ Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc. (“Con Edison”), New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid (“National Grid”), Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation (collectively, the “Joint Utilities”) hereby submit

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these comments on the proposal in the Staff Report and Staff’s specific requests for comment.

The Staff Report proposes a low-income bill discount pledge (“BDP”) program which would allow customers enrolled in utility low-income bill discount programs (“low-income customers”) to redirect all or a portion of their monthly utility bill discount to investments in community distributed generation (“CDG”) projects, thereby reducing or eliminating the need for low-income customers to pay monthly subscription fees to be a part of CDG projects. The program was designed to incentivize low-income customer participation in distributed generation.2

The BDP program would require that the bill credits resulting from participation in the CDG project would be the same or greater than the allocated portion of a customer’s low-income bill discount, resulting in electricity bills that would be the same or lower than they would have been under the utility’s low-income program. Staff believes the BDP program would increase opportunities for low-income households to participate in CDG projects and provide CDG developers with a reliable revenue stream.3 The Joint Utilities support this goal. However, the BDP program proposal is complex and, as the Staff Report acknowledges, there are many “issues that will need to be further addressed” prior to Commission approval and implementation of such a program.4

These comments specifically address the Joint Utilities’ concerns around the potential complexities associated with management of the low-income customer discount allocation to CDG developers, guaranteed bill savings for customers, maintenance of a CDG developer’s wait-list, customer consent and data privacy, and additional low-income customer protections.

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2 Id., pp. 21-22.
3 Id., p. 22.
4 Id., p. 25.
The Joint Utilities also express concern that the BDP program proposal seeks to redirect customer money using a potentially complex and costly solution that may not resolve the fundamental challenges associated with low-income customer participation in programs (i.e., access and ability to finance), may not reduce customers’ total energy burden, and may have little to no impact on low-income customer bills.

In order to address these issues, the Joint Utilities recommend additional discussions and/or technical conferences with interested stakeholders to determine whether there should be further consideration of the proposed BDP program.

II. The Staff BDP Proposal

The Staff Report outlines many components of the proposed BDP program and recommends targeting high-usage electric customers who could potentially benefit the most from the program in coordination with other bill reduction programs offered by the Joint Utilities or the New York State Energy Research and Development Authority (“NYSERDA”). In order to effectively identify customers that could most benefit from the BDP program, the Staff Report recommends that CDG developers coordinate with community action agencies to provide assistance in identifying and enrolling customers who may qualify for bill discount programs but have not yet enrolled. The Staff Report notes the important role that the Joint Utilities would play in BDP program implementation and administration, and identifies the need for an information-sharing framework between CDG developers and the utility (and as appropriate, NYSERDA), since utilities have information on current low-income customers (e.g., status, location, and energy usage).

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5 Id., p. 24.
The Staff Report also proposes a wait-list, maintained by the CDG developer or the utility, as a potential solution to the qualification, recruiting, and retention challenges CDG developers have identified for the low-income customer segment. This wait-list would provide CDG developers with backup subscribers who could assume the subscription for low-income customers who move or are unable to make their payments. Depending on how the wait-list is implemented, it could also reduce initial customer acquisition costs as well as re-marketing costs associated with customer turnover. Staff requested specific comments from the Joint Utilities and other parties on the benefits, costs, and risks presented by the wait-list procedures.

While highlighting the importance of protecting low-income customers, the Staff Report also states that “[i]n addition to the requirements put in place by the DER Oversight Order, the BDP program must have program-specific rules and consumer protection measures, disclosures, and accountability measures to ensure that financially vulnerable customers are not taken advantage of or otherwise compromised.” Based on the Staff Report, participants in the BDP program must receive, on an annual basis, the same or better bill discount as under a utility low-income bill discount program, otherwise the CDG developer could face discontinuation of BDP payments from the utility going forward. As such, the Staff Report provides that annual guaranteed bill savings is fundamental to the BDP program. In addition to the annual bill savings guarantee, Staff invited comments on what additional program-specific consumer protections should be considered.

Lastly, as the Staff Report notes, success of the BDP program will vary based on customer and utility because low-income bill discounts vary across utilities and household income levels, and CDG compensation amounts vary by utility.

III. Low-Income Customer Discount Allocation

In addition to the issues identified in the Staff Report, there are other potential complexities associated with managing and providing the low-income customer discount allocation to CDG developers that must be evaluated. The Staff Report notes that customers can “redirect all or a portion of their discount to investments in CDG projects.” This provision raises a number of implementation questions related to: (1) the establishment of the customer’s discount allocation; (2) the mechanisms through which the discount allocation is documented, billed, and monitored; and (3) the mechanisms by which the utilities and CDG developers exchange information and settle payments.

For instance, further evaluation is necessary to determine whether customers could designate a set dollar or percentage amount of the low-income discount to be allocated to the CDG developer, and if both options were available to customers, whether this could vary by customer, project, or CDG developer. The BDP program would also need to outline the process by which customers would notify the CDG developer and/or the utilities of their discount allocation. Additionally, as Staff highlighted, after receiving appropriate customer consent, processes to exchange customer information (e.g., participation in low-income discount programs, participation in CDG program), settle accounts payable to CDG developers, and manage account discrepancies would need to be established.

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7 Staff Report, p. 21.
8 Id., p. 25.
Finally, since a customer’s participation in utility low-income programs may change over time, consideration must be given to the program impacts and management of changing eligibility, including coordination with CDG developers, timeframes for notifications, impacts to BDP program enrollment, and payment and/or bill impact risks if a customer who once qualified becomes ineligible.

IV. BDP Program Guaranteed Bill Savings

As discussed earlier, the Staff Report provides that participants in the BDP program must receive, on an annual basis, the same or better bill discount as under a utility low-income bill discount program, otherwise the CDG developer could face discontinuation of BDP payments from the utility going forward. It appears that this would allow the CDG developer to set the CDG subscription dollar amount equal to the expected CDG bill credit the low-income customer would receive. If the BDP program were to go forward, Staff should consider whether to require not only that the CDG subscription price is equal to the low-income discounts, but that it actually lowers the customer’s bill.

Customer funded low-income discounts and program implementation costs need to be evaluated so that they achieve their purpose at the least cost to all other customers. As currently structured all customers would face a cost increase associated with the changes to utility information technology systems, processes, and procedures required to implement the BDP program. However, if the subscription price is required to be lower than the CDG bill credit, the energy bill will become a lower percentage of the low-income customer’s wallet share. This structure furthers the purpose of the Commission’s Low-Income Order which stated that greater

9 Id., p. 22.
access and support for low income and underserved communities to distributed energy resources ("DER") as well as advanced energy management products will “empower those for whom these savings have the greatest value, as well as allowing the most disadvantaged customers more choice in how they manage and consume energy.”  

V. Roles in Maintaining the Wait-List

As mentioned above, the Staff Report proposes a wait-list of backup participants in order to alleviate the challenges CDG developers face in qualifying, recruiting, and retaining low-income customers. The Staff Report requested comments on the benefits, costs and risks if utilities were to be responsible for maintaining the wait-list procedures outlined for the BDP program. The Joint Utilities believe that it would be more appropriate for CDG developers to manage the wait-list. This would allow CDG developers to maintain their own relationship with the customer, reduce administrative complexity, and prevent unintentional sharing of customer information. For instance, if the CDG developer conducts outreach and education, and receives more customer interest than anticipated, the CDG developer could maintain a list of interested customers for the project, whereas if the utility were responsible the CDG developer would have to coordinate with the utility as open subscriptions became available and would still need to recruit customers to obtain the required consent.

Regardless of who maintains the wait-list, further clarification is required in areas including defining whether the wait-list would be developed by project or by New York Independent System Operation ("NYISO") zone; and the frequency with which the wait-list

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10 Case 14-M-0565, Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers, Order Adopting Low Income Program Modifications and Directing Utility Filings (issued May 20, 2016)(“Low-Income Order”), p. 10.
would be updated and reviewed. Additional topics for further discussion around the wait-list include: (1) the process by which a customer is identified by the CDG developer and maintained on the wait-list (e.g., will the CDG developer follow-up annually with customers to determine their eligibility and interest in remaining on a wait-list); (2) method by which the wait-list is maintained; (3) process by which wait-list changes are communicated (e.g., if a customer is no longer interested or eligible, if a customer is participating in a different CDG project, etc.); and (4) management of any customer inquiries around the wait-list.

If the utilities were required to provide wait-list procedures, the procedures would require ongoing coordination and administrative activities that provide additional support to CDG providers beyond that which is provided to other DER suppliers. The Joint Utilities believe that this coordination role provides a value-added service to CDG developers and, as such, it may be appropriate that CDG developers pay the utilities for such services. The realization of any revenues could offset utility costs associated with supporting CDG providers, thereby, eliminating or minimizing costs to other customers. Further detail is needed to support a more robust articulation of the benefits, costs, and risks related to the wait-list coordination as well as the proposed BDP program overall.

VI. Customer Consent and Data Privacy Concerns

The Staff Report proposed an information sharing framework between CDG developers and utilities (and as appropriate, NYSERDA) since the utilities have customer-specific information including usage levels, program enrollment, and customer location.\(^\text{12}\) While the Staff Report identified customer consent and data privacy as issues that needed to be further

\(^{12}\) Id., p. 24.
addressed in the context of the proposed information sharing framework, the Joint Utilities believe that the Commission has already articulated its policy concerning customer data privacy issues in past Commission orders and, most recently, in the DER Oversight Order. The Commission’s customer data privacy policy generally requires explicit customer consent prior to disclosing customer data. As such, any proposed information sharing framework should be consistent with established orders, which are briefly summarized below.

In its *Order Adopting a Ratemaking and Utility Revenue Model Policy Framework* ("REV Track Two Order"), the Commission stated that it “will continue to require that individual customer usage data can only be released to developers authorized by customers on an opt-in basis.” Additionally, the DER Oversight Order, which established Uniform Business Practices for DERS ("UBP-DERS"), requires DER suppliers to obtain customer authorization to receive information and to inform customers of: (1) the types of information to be obtained; (2) to whom it will be given; (3) how it will be used; and (4) how long the authorization will be valid. CDG developers are clearly subject to the requirements in the DER Oversight Order, and in fact, the Commission has placed more stringent requirements beyond those in place for all other DER suppliers. The Commission has been particularly concerned about releasing information as to a customer’s participation in utility low-income programs without customer

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13 *Id.*, p. 25.
14 E.g., in the OPower Order, the Commission described its careful examination of “how consumer privacy (in the form of customer information, such as address and account number, as well as energy usage history) will be protected as part of the implementation” of programs that involve the disclosure of customer data without informed customer authorization. See *Cases 07-M-0548 et al., Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio*, Order on Rehearing Granting Petition for Rehearing (issued December 3, 2010)("OPower Order"), p. 17.
15 DER Oversight Order, pp. 24-25.
17 *Id.*, p. 147.
18 DER Oversight Order, Appendix A, pp. 7-8.
Given the Commission’s clear direction, the Joint Utilities caution against developing a BDP program in a manner that would require disclosure of customer information, including energy usage information and low-income program eligibility, without customer consent.

VII. **Staff’s Request for Comment on Customer Protections**

The Joint Utilities support additional customer protections so the BDP program does “not create opportunities for predatory sales and marketing practices or exploitation of low-income communities for financial gain.” As noted in the Staff Report, the CDG developers participating in the BDP program would need to comply with the requirements established by the DER Oversight Order and the BDP program would also need to consider program-specific rules and protection measures. In addition to the proposed bill savings guarantee described above, the Joint Utilities generally support the additional areas for protection outlined by Staff including:

- Clear review of qualifications for participating developers and community partner organizations.
- Appropriate steps, fees, or implication for early termination of BDP subscriptions.
- Protections against hidden fees or unreasonable fee or rate escalators.
- Checks and balances for each developer’s BDP program.

As is the case in other areas of the BDP program proposal, additional details on the protections outlined above would be needed for evaluation.

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21 *Id.*
The Joint Utilities note that any additional protections or requirements for the BDP program could require review and modification of the UBP-DERS and suggest that Staff consider the following: (1) applicability of the UBP-DERS to all parties working with CDG developers in a BDP program such as community organizations and third-party vendors; (2) whether the additional requirements for CDG developers established in the UBP-DERS are adequate (e.g., reporting requirements as they relate to evaluating the proposed annual bill savings guarantee); and (3) whether current customer disclosure requirements provide enough clarity and transparency to low-income customers on the benefits and costs of participating in the BDP program.

**VIII. Conclusion**

The Joint Utilities support the policy goals to engage and provide access and choice to low-income customers for opportunities related to REV initiatives. The Joint Utilities recognize that the proposed BDP program is unique and will require significant effort to develop the processes and requirements with enough specificity to provide value to customers in a cost-effective manner.

The Joint Utilities recommend additional discussions and/or technical conferences to determine whether further development of the BDP program proposal is appropriate. Further discussion should include a range of stakeholders with early-tranche CDG developers that have experience in marketing, enrolling, and serving CDG customers in New York. This information, in addition to other participants’ feedback, could help clarify whether Staff’s BDP program proposal is useful and workable and if so, help identify additional details and clarifications that might be required to implement a viable program.
It is also important that all parties leverage lessons learned from ongoing pilot programs to inform future programs. Specifically, Con Edison’s Shared Solar Pilot Program, which will provide renewable energy benefits to low-income customers through projects developed on Con Edison land/rooftops\textsuperscript{23} and National Grid’s Fruit Belt Neighborhood Solar REV Demonstration Project underway in Buffalo, which will provide bill credits to a pool of low-income customers with the goal of reducing customer bill arrears,\textsuperscript{24} are likely to provide information that can help assure and support cost-effective and efficient programs for low-income customer participation in renewable distributed generation going forward.

Dated: March 5, 2018

Respectfully submitted,

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. and ORANGE AND ROCKLAND UTILITIES, INC.

By: /s/ Kerri Kirschbaum

Kerri Kirschbaum
Senior Attorney
Consolidated Edison Company of New York, Inc.
4 Irving Place
New York, New York 10003
Tel.: 212-460-1077
Email: kirschbaumk@coned.com


\textsuperscript{24} REV Proceeding, Staff REV Demonstration Project Assessment Report – National Grid: Fruit Belt Neighborhood Solar (filed December 2, 2015).
CENTRAL HUDSON GAS AND ELECTRIC CORPORATION

By: /s/ Paul A. Colbert

Paul A. Colbert
Associate General Counsel – Regulatory Affairs
Central Hudson Gas and Electric Corporation
284 South Avenue
Poughkeepsie, NY 12601
Tel: (845) 486-5831
Email: pcolbert@cenhud.com

NIAGARA MOHAWK POWER CORPORATION d/b/a NATIONAL GRID

By: /s/ Janet M. Audunson

Janet M. Audunson
Senior Counsel II
National Grid
300 Erie Boulevard West
Syracuse, New York 13202
Tel: (315) 428-3411
Email: janet.audunson@nationalgrid.com

NEW YORK STATE ELECTRIC & GAS CORPORATION and ROCHESTER GAS AND ELECTRIC CORPORATION

By: /s/ Mark Marini

Mark Marini
Director - Regulatory
89 East Avenue
Rochester, NY  14649
Tel.: (585)750-1666
Email: Mark_Marini@rge.com