

Comments

05-S-1376



conEdison
a conEdison, Inc. company

Marc Richter
Associate General Counsel

June 19, 2006

VIA AIRBORNE EXPRESS

Hon. Jaclyn Brillig
Secretary
New York State Public
Service Commission
Three Empire State Plaza
Albany, NY 12223

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**Re: Case No. 05-S-1376
Con Edison Steam Rate Case**

Dear Secretary Brillig:

Enclosed are the original and fifteen copies of the "Statement in Support of Joint Proposal" of Consolidated Edison Company of New York, Inc. ("Con Edison" or the "Company").

Very truly yours,

MLK/md
Enclosures

Cc: Hon. Rafael A. Epstein
Administrative Law Judge

All Active Parties by
e-mail and Regular Mail

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**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

Case No. 05-S-1376	Proceeding on Motion of the	:	
	Commission as to the Rate, Charges,	:	Before
	Rules and Regulations of Consolidated	:	Hon. Rafael Epstein
	Edison Company of New York, Inc.	:	
	For Steam Service	:	

**STATEMENT IN SUPPORT OF
JOINT PROPOSAL**

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Dated: June 19, 2006
New York, New York

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**STATEMENT IN SUPPORT OF
JOINT PROPOSAL**

On June 2, 2006, a number of active parties to this proceeding entered into a Joint Proposal ("Proposal") establishing Con Edison's steam rates for a two-year period from October 1, 2006 through September 30, 2008 ("Steam Rate Plan"). The signatory parties include Consolidated Edison Company of New York, Inc. ("Con Edison" or the "Company"), Staff of the Department of Public Service ("Staff"), the City of New York ("City"), Consumer Power Advocates ("CPA"), New York Energy Consumers Council ("NYECC"), Pace Energy Project ("Pace"), The E-Cubed Company, LLC ("E-Cubed"), and ConsumerPowerline (collectively, the "Signatory Parties"). The Joint Proposal was also filed with the New York State Public Service Commission ("Commission") on that day. Con Edison submits this Statement in Support of the Joint Proposal.

The Proposal establishes a rate plan for the Company's steam operations that balances customers' preference for rate predictability, the Company's need to recover increased expenses, and to provide for the investment in the Company's steam infrastructure necessary to maintain reliable, safe and secure steam service over the long term. The Proposal also demonstrates the Company's commitment to steam business development and addresses various other issues and concerns raised by the parties during the proceeding.

The Proposal resolves the various complex issues raised by the parties in a reasonable manner and is fair to the Company's customers and investors in assuring the provision of safe and adequate steam service at just and reasonable rates. The Proposal is supported by parties representing a broad array of diverse interests, including major commercial customers and their representatives, distributed generation providers, and environmental advocates, and comports with the Commission's goals and policies. The Proposal fully satisfies the Commission's settlement guidelines,¹ and should be promptly approved by the Commission in all respects.

A. BACKGROUND

On November 2, 2005, Con Edison filed a request with the Commission to increase charges to steam customers. The filed steam tariff leaves reflected the traditional method of calculating the revenue requirement for the rate year, the twelve months ending September 30, 2007. The requested increase in base rates was \$102.1 million, including annual carrying charges associated with the capital costs and operation and maintenance ("O&M") expenses for the East River Repowering Project ("ERRP") that are currently being recovered through the steam fuel adjustment clause ("FAC"). However, since the proposed increase in base rates reflected the shift of \$34.5 million of ERRP carrying charges from the FAC to base rates, on a revenue-neutral basis, the net effect of the proposed base rate increase and decrease in the costs recovered through the FAC was to increase customers' bills by \$67.6 million, or 9.6 percent.

In order to provide customers with relatively stable and predictable rates (exclusive of increases or decreases in fuel costs) over the next several years, the Company also proposed a three-year rate plan that would permit the Company to increase rates in the first year as filed; provide for limited increases in the second and third years, to cover expected cost changes, and

¹ Case No. 90-M-0255, Opinion No. 92-2, March 24, 1992.

for reconciliations; and commit the Company to refrain from requesting a further increase in steam rates, through September 30, 2009, except in limited circumstances.

There were several factors contributing to the current need for increased steam revenues, including added infrastructure investment and related depreciation and property taxes, as well as increases in expenses and the transfer of the operating costs of the 59th and 74th Street Steam Generating Stations (“Stations”) from electric to steam (which is provided for by the current rate plan and accounted for approximately \$23 million, or approximately 35 percent, of the proposed increase). The Company’s filing noted that the need for increased steam revenues was, however, already mitigated by some \$50 million attributable to the gains from the sale of the First Avenue properties allocated to steam customers and other customer credits, and higher estimated sales.

A technical conference was held on December 6, 2005, to provide interested parties with an overview of the filing and to answer their questions. In addition, the Company responded to more than 650 multi-part discovery requests from Staff and other active parties. Staff and other active parties filed their direct cases on February 27, 2006; update and rebuttal testimony was filed on March 13, 2006.

On March 10, 2006, Con Edison notified all parties of the commencement of settlement negotiations on March 16, 2006. Settlement negotiations began on March 16, 2006 and continued on March 29, 30 and 31, 2006, at which time they were terminated. On April 12, 2006, Con Edison notified all parties of the resumption of settlement negotiations on April 24, 2006. The negotiations resumed on that date and continued on April 25, 26 and 27, 2006 and May 2, 4, 5, 8, 23, 24, 30 and 31, and June 1 and 2, 2006.

All settlement negotiations were conducted in accordance with the Commission’s Settlement Rules, 16 NYCRR § 3.9, and all parties received appropriate advance notice of all

negotiating sessions, including breakout sessions that, pursuant to agreement of the active parties, were conducted on particular issues during the same time period.

As a result of these arduous and open settlement discussions and negotiations, the vast majority of the participants in this proceeding reached agreement on all of the issues raised in this proceeding, which is embodied in the Proposal. The Proposal was filed with the Secretary of the Commission on June 2, 2006.

B. OVERALL FRAMEWORK OF THE JOINT PROPOSAL

The Proposal provides a comprehensive resolution of all the issues raised in this proceeding and, taken in its entirety, furthers the objective of assuring the continued provision of safe and reliable steam service at just and reasonable rates while providing the Company with revenues consistent with the need to maintain, upgrade and enhance the steam system infrastructure.

In general, the Proposal provides a comprehensive two-year rate plan for steam service that results in no changes to base rates (except for the shift of recovery of certain costs between base rates and the FAC beginning in the second rate year); permits the Company to retain certain existing and projected customer credits to defray increasing costs associated with operating, maintaining and upgrading the steam system and providing steam service; addresses accounting issues, including reconciliations, and earnings sharing; provides for a five-year amortization of a portion of the depreciation reserve deficiency proposed by the Company; effectuates the transfer of costs attributable to the steam department's operations at the 59th and 74th Street Stations into steam base rates and recognizes that the electric department should continue to bear a portion of the costs of these stations on the basis of current and future electric department use of these facilities; continues the Company's provision of sample demand billing to customers that will be subject to demand charges to be implemented at the beginning of the second rate year; and

commits the Company to implement numerous steam business development measures intended to help maintain and grow the steam business. The Proposal also continues various existing rate provisions, including the Company's recovery of the costs of purchased steam and fuel on a current basis.

In this proceeding, the collaborative process served the parties well and provided an appropriate setting for resolving the many complex and diverse issues raised by the parties. The process enabled the parties to fully explore their respective positions and reach a compromise on those diverse positions. As with any compromise, individual provisions of the Proposal may not be to the liking of one or more parties and all parties, including the Company, made numerous concessions to reach agreement. In fact, numerous provisions of the Proposal were very difficult for the Company to accept. For example, in addition to accepting steam rates that are lower than supported by its rate filing, the Company agreed to establish base rates reflecting a rate of return on equity lower than the return used to establish current rates, while maintaining the opportunity to earn above that level; to limit its ability to recover deferred increases in certain costs that are otherwise subject to reconciliation if the Company exceeds certain earnings levels; to accept aggressive sales-related growth imputations;² to continue to bear the net revenue effect of steam sales shortfalls due to warmer-than-normal weather; and to establish various performance metrics and associated revenue adjustments relating to its steam business development and steam production activities (without any positive incentives, other than for achieving property tax refunds). Given the wide range of complex issues presented, the Company ultimately concluded

² As described in the Steam Business Development Plan approved by the Commission by its order issued and effective December 5, 2005 in Case 03-S-1672, the ability of the steam system to compete for new heating and cooling sales also depends on governmental and regulatory factors, including tax and incentive policies that hold the steam system at a competitive disadvantage.

that the Proposal was reasonable on an overall basis, accepting the many unfavorable features of the Proposal as part of the give and take inherent in any compromise.

C. RATES AND REVENUE LEVELS

1. Two-Year Steam Rate Plan

The Proposal covers Con Edison's steam rates and charges for retail steam sales and steam transportation service for the term of the Steam Rate Plan – the two-year period October 1, 2006 through September 30, 2008. The first rate year ("RY1") is the period of October 1, 2006 through September 30, 2007 and the second rate year ("RY2") is the period of October 1, 2007 through September 30, 2008.

The Proposal provides for no changes to steam base rates, except for the shift of recovery of certain costs between base rates and the FAC beginning at the start of RY2, thereby providing steam customers with a high degree of base rate stability during the two-year period covered by the Proposal. This was accomplished by first establishing a revenue requirement for each of Rate Years 1 and 2 that reflect a netting of the amortizations of various customer credits and debits on the Company's books of account and specified customer credits and debits to be applied during the term of the Steam Rate Plan, and offsetting a calculated rate decrease for RY1 with a rate increase calculated for RY 2.³

In lieu of a base rate increase, the increased costs and expenses over the two-year term are instead defrayed in large part through the Company's retention of credits that were previously deferred for customer benefit or would otherwise be deferred during the Rate Plan for customers' benefit. These credits are described in Appendix B to the Proposal and include,

³ The revenue requirements also reflect various changes to depreciation rates and the amortization of a portion of the depreciation reserve deficiency proposed by the Company over a five-year period, commencing in RY1.

among others, the steam department's share of the proceeds from the sale of the First Avenue Properties and past and projected sales of SO₂ allowances (described below).

2. Allocation of 59th Street/74th Street Costs

Pursuant to the Commission's order adopting the currently-effective steam rate plan,⁴ the Company's rate filing proposed to transfer to steam rates costs associated with the 59th and 74th Street Stations that are currently recovered in electric rates (approximately \$23 million per year). These costs represent the portion of the non-fuel operating costs of the Stations that had been recovered in electric rates when the Stations ceased being used to produce co-generated electricity or to power the 25 Hertz system that served the subways and commuter railroads in the metropolitan area.

However, even though the Stations are no longer used to produce co-generated or 25 Hertz electricity, portions of the Stations have been used and will continue to be used for electric purposes. In particular, the Stations house gas turbines that support local electric networks (e.g., to meet local electric requirements during peak periods), and the Company has selected the unused portion of the 74th Street Station as the site for a proposed new substation to support networks in that Station's vicinity and has also reserved space for the substation's future expansion.⁵

In recognition of these circumstances, there was agreement that the electric department should continue to bear some portion of the costs of these stations. In particular, it was agreed that the Stations' common costs (i.e., carrying charges and property taxes on land and structures and facility-related O&M) should be allocated between the electric and steam departments.

After considering various allocation methodologies, the Parties agreed that an allocation based

⁴ Case 03-S-1672, Consolidated Edison Company of New York, Inc. – Steam Rates, Order Adopting the Terms of a Joint Proposal (issued and effective September 27, 2004) ("2004 Steam Rate Order").

⁵ The 59th Street Station also contains equipment used to cool nearby 345 kV feeders.

upon the square footage of used and useful steam and electric facilities, including the footprint of the new substation and space reserved for its future expansion, and excluding unused and common space, would produce a reasonable result for the purposes of this Steam Rate Plan. Given the early stage of the planned electric substation at the 74th Street Station, the Company believes that this is a reasonable methodology to employ for the purposes of this Steam Rate Plan. As a result, electric customers will pay \$4.4 million of the common costs of these two stations, a reduction of approximately \$18.6 million as compared to the costs currently recovered in electric rates. For steam customers, steam base rates will reflect \$4.4 million less than was anticipated in the Company's rate filing.

3. Proceeds from the Sale of SO₂ Allowances

The Proposal recognizes the Company's actions to maximize for the benefit of customers revenues from the sale of sulfur dioxide ("SO₂") allowances. These allowances are provided by the United States Environmental Protection Agency ("EPA") based on the amount of sulfur dioxide emitted by Company generating units during the 1985-1987 baseline period. They authorize the Company to emit one ton of sulfur dioxide per year for each such allowance. In light of the Company's divestiture of its electric generating units and changes in the operation of its remaining generating units, the Company does not use all of the allowances that it was allocated to comply with environmental requirements and sells the unused allowances into the marketplace.

The proposed steam base rates are lower than they would otherwise be because they reflect the steam department's share of proceeds from sales of SO₂ allowances realized by the Company through January 31, 2006, and the projected sale of additional allowances. Specifically, base rates reflect an annual credit of \$3.6 million for steam's share of proceeds

achieved by the Company through January 31, 2006, and an additional \$3.5 million for the steam department's share of forecasted proceeds.

The allocation of projected proceeds between the steam and electric departments is based upon a multi-step formula developed by the Parties that is designed to reflect the historical basis for EPA's allocation of SO₂ allowances to Con Edison generating units and the Company's annual use of these allowances for steam and electric purposes. The allocation of past proceeds uses the methodology reflected in the Company's rate filing, which assigns all proceeds attributable to retired and divested units to the electric department and all allowances attributable to operating generating units to the steam department. The Parties determined that the application of the new multi-step formula to these past proceeds was not necessary because it would not produce materially different results.

D. RATE DESIGN

1. Recovery of Fuel, ERRP and Production-Related Costs

The Proposal provides for the continued reconciliation of variations between the actual cost of fuel and the base cost of fuel through the FAC, including the annual reconciliation of steam fuel cost expenses and revenues, and the continued recovery of the Company's total fuel costs associated with the actual steam system variance (subject to the reconciliation mechanism established by the 2004 Steam Rate Order), to the extent such costs are not recovered in base rates.

Commencing in RY2, the Proposal re-allocates the Company's recovery of certain costs between base rates and the FAC, i.e., ERRP carrying charges, water and water chemical charges, and an adjustment to the base cost of fuel recovered in base rates.

With respect to ERRP, which went into commercial operation in April 2005, the Proposal continues the Company's current recovery of ERRP carrying charges through the steam FAC in

RY1, allocated between the electric and steam customers in the manner expressly set forth in the 2004 Steam Rate Order, based on actual total capital costs not to exceed \$788.3 million.

Commencing October 1, 2007, the steam department's share of ERRP's carrying costs that would otherwise be recovered through the FAC in RY2 will be transferred into base rates,⁶ on an earnings neutral basis, and allocated to each service class on the basis of RY2 forecasted sales volumes to avoid customer bill impacts that would normally occur when such costs are shifted from the FAC to base rates.

With respect to the base cost of fuel, the Proposal provides for the base cost of fuel to remain at \$5.049 per Mlb for RY1. For RY2, the Proposal permits the Company, upon consultation with Staff and inclusion in its second year rate filing, to revise the base cost of fuel (not to be increased by more than \$3.00 per Mlb), based on a review of the actual average cost of fuel prior to RY2 and the average cost of fuel forecast for RY2. This adjustment will result in base rates better reflecting the cost of fuel to provide steam service and reducing the monthly adjustment to the cost of fuel.

In addition, the Proposal recognizes that the Company's costs of purchased water and water chemicals are production-related costs subject to variations beyond the Company's control and are more appropriately recovered through the FAC. Accordingly, commencing October 1, 2007, the Proposal provides that such costs will be recovered through the FAC.

2. Rate Design Collaboratives

The Proposal reflects the Company's agreement to meet with interested persons to explore whether there is a reasonable basis to consider changes to certain rates and/or terms of service, as follows.

⁶ This transfer is subject to any amount disallowed by the Commission based on its review of the construction and associated costs of ERRP.

The Company will convene a collaborative in May 2007 to discuss and analyze (i) customer usage characteristics and load data, including data derived from demand-metered customers, in order to evaluate whether or not the SC 1, SC 2 and/or SC 3 classes should be realigned to increase homogeneity based on customer size, load factor, or other considerations; and (ii) the relevant costs of SC 4 back-up/supplementary service, and to consider the appropriate design for back-up/supplementary rates based on cost causation characteristics and principles of revenue neutrality.

The Company also agreed to file a report that details (i) the derivation and cost basis of its SC 6 transportation charges; and (ii) explains the basis for certain tariff limitations, and to hold a technical conference to discuss the report and explore the potential for tariff changes.

Finally, the Company agreed to convene an advisory group of interested parties on or about November 1, 2006 to consider enhancements to Rider E of the steam tariff, the negotiated steam fuel cost option, and to meet with this group over a period of two months to determine if enhancements to the program are appropriate.⁷

3. Demand Rates/Demand Metering

The Proposal provides for the implementation of winter demand charges⁸ for SC 2 and SC 3 steam customers with demand meters and annual consumption equaling or exceeding 22,000 Mlbs ("Demand Metered Customers"), commencing November 1, 2007. This program will enable the Company to give customers price signals that better reflect the costs they impose on the steam system. Such pricing is intended to reduce system peak demand and increase the

⁷ For Con Edison, these enhancements do not include customized hedges for individual customers or a program that would offer customers the opportunity to enter into hedges more than twice during the year.

⁸ Winter demand charges will recover 25 percent of the winter base revenue, net of base fuel, station electric usage charges and Customer Charge, that otherwise would be collected from these eligible customers at the October 1, 2007 rate level ("Demand Revenue Requirement") allocating 90 percent of the Demand Revenue Requirement to the winter on-peak period and 10 percent of the Demand Revenue Requirement to the winter all-time peak period. Usage charges will be proportionally reduced to recover the balance of the winter pure base revenue requirement.

system load factor, and is in furtherance of the recommendations of the Steam Business Development Task Force.

Although the implementation of demand charges will be on an overall revenue neutral basis to the Company, individual customers' bills will be impacted depending upon their use of steam during peak periods. To help these customers take steps to mitigate potential bill impacts, prior to the implementation of demand charges on November 1, 2007, the Company has provided, and will continue to provide, "sample billing" to Demand Metered Customers.⁹ In order to maximize the availability of sample billing to customers that will be subject to demand charges on November 1, 2007, the Company also committed to install, by November 1, 2006, demand meters for its SC2 and SC3 customers with annual sales equal to or greater than 22,000 Mlbs as of April 30, 2006, as a prerequisite to commencing demand charges effective November 1, 2007, subject to a revenue adjustment if the meter installation effort is not completed on a timely basis, subject to an exclusion for customer-specific exceptions.

In addition, the Company agreed to provide reports to interested parties showing by service class the estimated billing impacts from demand charges on Demand Metered Customers during the 2005/2006 and 2006/2007 winter periods; convene a meeting during July or August 2007 to discuss the billing impacts and the Company's planned compliance filing to implement demand charges effective November 1, 2007; and if requested, convene a technical conference after the Company makes its compliance filing.

4. Miscellaneous Tariff Changes

As described in the Proposal, the Company will also make miscellaneous tariff changes, which are shown on draft tariff leaves attached to the Proposal.

⁹ The sample bill will be provided to Demand Metered Customers calculated using proposed demand-based rates for informational purposes only.

E. EARNINGS SHARINGS

The Proposal provides that earnings in excess of an 11.00 percent return on common equity in RY1 and RY 2 (“Earnings Sharing Threshold”),¹⁰ based upon the actual average equity ratio (subject to a maximum equity ratio of 50 percent of capitalization and excluding all components related to “other comprehensive income” that may be required by generally accepted accounting principles), will be shared equally (50 percent – 50 percent) between customers and the Company. Earnings more than 100 basis points above the Earnings Sharing Threshold will be shared 75 percent – 25 percent between customers and the Company. The calculation will be made based on a per books basis and will exclude any incentives and performance-based revenue adjustments, the Company’s share of property tax refunds, the adjustment mechanism for the steam variance, and any other Commission approved ratemaking incentives and revenue adjustments applicable during the Rate Plan.

The Proposal also requires the Company to limit various customer deferrals by 50 percent if its earnings are above the Earnings Sharing Threshold by up to 100 basis points, and by 100 percent if its earnings are more than 100 basis points above the Earnings Sharing Threshold, provided that such limitations of deferrals do not cause the resulting earnings to decrease below the Earnings Sharing Threshold.

F. RECONCILIATIONS

To protect both customers and the Company from variations in costs over which the Company does not have control, the Proposal provides for certain categories of costs to be reconciled at the end of each rate year, by comparing the forecasted amounts included in the

¹⁰ The Earnings Sharing Threshold will be 10.8 percent if the Company incurs any revenue adjustments by reason of not meeting any of the performance metrics included in the Rate Plan.

revenue requirement to the actual costs incurred by the Company, with any overcollections or undercollections to be deferred, with interest, for future Commission disposition.

The costs to be reconciled include property taxes, interference costs (other than Company labor), pensions/OPEBs, environmental remediation, production plant expenditures, and proceeds from the sale of SO₂ allowances. The revenue requirement also reflects the amortization of \$4 million per rate year of World Trade Center-related costs; the balance of the steam department's share of WTC-related costs allocated will be deferred in accordance with the Commission's determination in Case 01-M-1958.

Some of these costs are subject to full reconciliation, while other cost overcollections or undercollections are shared between customers and the Company on a percentage basis. For example, the Proposal provides that overcollections or undercollections of property taxes and interference costs will be shared between customers and the Company on a 90/10 basis, respectively. On the other hand, costs associated with pension/OPEBs and environmental remediation and proceeds from the sale of SO₂ allowances are fully reconciled.¹¹

With respect to production plant expenditures, the Proposal provides for the Company to defer for the benefit of customers the revenue requirement impact if the level of steam production capital expenditures results in the steam department's average net steam production plant being less than the targeted amount set forth in the Proposal.¹² On the other hand, the Proposal authorizes the Company to seek deferral of the carrying charges associated with any

¹¹ The 2004 Steam Rate Plan provides that "[t]he steam pension/OPEB expense or credit recorded prior to October 1, 2004 will not be eliminated from the Company's earnings base or capitalization for ratemaking purposes." By agreeing to the Joint Proposal, the Company does not waive any of its rights with respect to the issue of including pension/OPEB expense in the Company's earnings base or capitalization for ratemaking purposes, and reserves all of its rights to pursue its position as to this matter in any proceeding before the Commission, except with respect to the steam base rates established by the Joint Proposal for the term of the Steam Rate Plan.

¹² The Proposal recognizes that the Company has the flexibility to modify or reprioritize the nature and scope of both its production plant and distribution plant expenditures.

new capital project of an amount greater than \$5 million, subject to the incremental and earnings criteria for deferral petitions.

G. STEAM BUSINESS DEVELOPMENT AND PRODUCTION PLANNING ACTIVITIES

The Proposal includes numerous commitments by the Company to demonstrate its commitment to steam business development (“SBD”). Although such undertakings are, for the most part, outside the scope of terms and conditions ordinarily included in a multi-year rate settlement, the Company agreed to these commitments, and additional commitments associated with the installation of demand meters (discussed *supra*) and its production planning efforts (discussed *infra*), along with associated revenue adjustments for non-performance totaling more than \$4 million in the aggregate¹³ and various reporting requirements (discussed *infra*), to reaffirm the Company’s commitment to its steam business and thereby enable a mutual resolution of a multi-year rate plan that would provide rate stability to steam customers and provide the Company with the means necessary to maintain, upgrade and enhance its steam system infrastructure and continue to provide safe and reliable steam service.

The following are among the steam business development efforts that the Company committed to undertake:

- Hybrid Chillers - The Company will promote the use of hybrid chiller systems by creating an advisory group intended to provide feedback on these types of systems; holding meetings and forums with interested customers and industry representatives; and reviewing and studying certain SC 2 and SC 3 steam customers to determine if they are viable candidates for hybrid chiller systems, and providing proposals to viable candidates that the Company identifies.
- Energy Audits - The Company will retain a consultant to provide site-specific improvement recommendations to up to 30 customers with demand meters

¹³ The Joint Proposal also provides for the Company to either be excused from any revenue adjustment or given additional time to satisfy the associated requirement(s) if the Company can demonstrate to the Commission that extraordinary circumstances prevented the Company from meeting such performance metric(s).

that have either low load factors or high consumption per square foot, share the audit results with customers, and provide a best practices report.

- Meetings/Contacts - The Company's steam business development personnel will contact developers, property owners, advisors, engineers and others a minimum of 175 times annually to maintain an ongoing dialogue regarding steam business development matters.
- Point of Contact/Ombudsman- The Company will assign members of its SBD personnel the responsibility for interfacing with each steam major account, and to work with the Company's account executives to address customer issues/concerns. For all other steam customers, the Company will provide the names and phone numbers of two SBD personnel designated to address these customers' issues/concerns. The Company will also appoint a steam customer ombudsman to address customer dissatisfaction with the service they receive from point-of-contact personnel.
- Customer Service - The Company will conduct a series of three focus groups with SC 2 and SC 3 customers to elicit issues/concerns; provide a qualitative report on issues/concerns elicited during the focus groups and, to the extent appropriate, planned responsive actions; and thereafter conduct a survey of customers that participated in the focus groups to obtain their feedback on the Company's efforts. The Company will also perform annually two customer satisfaction surveys of a representative sample of the steam customers that contacted the Company, using existing vehicles that capture this information until implementation of a new steam billing system, and report on the key issues identified through these surveys.

The Company will also develop and implement, by January 1, 2007, a marketing program for its steam repair service; install a back-pressure steam microturbine demonstration project at a Company facility to determine the feasibility of such a project; and complete and file with the Commission a district energy study of Hudson Yards by July 1, 2007. The district energy study is also in furtherance of the recommendations of the Steam Business Development Task Force.

The Proposal also further demonstrates the Company's commitment to the continued viability of the steam business through steam production planning studies and an annual Strategic Plan focusing on business development and production planning activities for one, three, five and ten year periods. The Company commits to file with the Commission a Steam Resource Plan ("Resource Plan"), approved by Con Edison's Chief Executive Officer, that will

examine and discuss various resource options (e.g., maintain and/or rebuild existing boilers, construct a new boiler(s), construct cogeneration, or seek competitively procured capacity), identify the option(s) selected by Con Edison, and fully support and justify that selection.

As part of the groundwork for preparing the Resource Plan, Con Edison also agreed to prepare an investment grade evaluation of two Hudson Avenue repowering options¹⁴ identified in Phase I of the on-going Steam Production Study (unless Con Edison believes there is a clear and convincing preferred option from Phase I) and to consider the investment grade evaluation in the development of the Steam Resource Plan. The Company agreed to present the rationale for its selection of options to be studied to the Steam Business Development Task Force. In light of the composition of the Task Force, which includes potential steam suppliers, and the identification of competitively-procured steam capacity as an option to be considered in the development of the Resource Plan,¹⁵ the Proposal continues the confidentiality provisions that were established by the 2004 Steam Rate Order to prevent disclosure of the Company's competitively-sensitive cost projections to potential steam suppliers.

The Strategic Plan will consider the findings of the Steam Business Development Plan, the Steam Production Study, and the Resource Plan (when applicable) in a manner designed to maintain the viability of the steam system. The Strategic Plan will also analyze and address the challenges related to steam customer retention and attraction.

To explore potential improvements to the thermal efficiency of the production and/or distribution of steam, the Company also agreed to develop, with input from interested parties, an implementation plan for one or more cost-beneficial projects.

¹⁴ The Proposal provides for the Company to defer for future recovery the cost of the outside consultant(s) retained for this purpose up to a maximum amount of \$500,000.

¹⁵ Phase I of the Steam Production Study has also been considering certain third-party steam supply proposals as proxies for such supply options in general.

Finally, the Company agreed to file various reports relating to steam production plant capital expenditures; steam production plant availability; projected and actual maintenance expenditures relating to its steam production plants; and activities involving the interconnection of CHP projects to Company facilities.

H. THE REASONABLENESS OF THE PROPOSAL

The Proposal reflects not only the tradeoffs among the Signatory Parties, but also a substantial effort to address the concerns voiced by all the parties to the process. Indeed, many aspects of the Proposal reflect the input of non-signing parties. All participants were given the opportunity to voice their concerns and a sincere effort was made to address them. Given the balancing required to effectuate the Proposal, parties primarily interested in only one or a few discrete elements of the Proposal may have difficulty in accepting the results of the balancing process. Nevertheless, the resulting agreement represents a good-faith effort to address all interests. Should one or more parties criticize individual elements of the Proposal and/or urge its rejection, such arguments must be measured against the numerous compromises that were negotiated in order to reach an agreement.

In the final analysis, the Proposal resolves the various issues presented and it should be approved in all aspects. The Company faces numerous operating and regulatory risks under this Proposal. The Company assessed these risks and prospects of its operations, as well as the possible outcomes of fully litigated proceedings, and concluded that the Proposal is acceptable. If the Proposal is not approved in its entirety, the Company respectfully requests that the Commission remand the Proposal to the parties to enable them to pursue their respective positions and remedies, with appropriate relief should it be necessary to further suspend the effective date of any rate changes.

I. CONCLUSION

For all the reasons set forth above, the Proposal balances the interests of a variety of parties and produces results within the range of reasonableness that would have been achieved through a fully litigated proceeding, reflects agreement by normally adversarial parties, and comports with the Commission's policies. As such, the Commission should approve the Proposal in its entirety as in the public interest.

Respectfully submitted,



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