STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on March 15, 2012

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Maureen F. Harris
James L. Larocca

CASE 09-E-0115 – Proceeding on Motion of the Commission to Consider Demand Response Initiatives.

ORDER ADOPTING WITH MODIFICATIONS TARIFF AMENDMENTS RELATED TO DEMAND RESPONSE PROGRAMS

(Issued and Effective March 15, 2012)

BY THE COMMISSION:

INTRODUCTION

On November 17, 2011, Consolidated Edison Company of New York, Inc. (Con Edison or the Company) filed a petition seeking approval of tariff changes to modify its Demand Response (DR) programs. According to the Company, the changes are proposed to improve the design of the Commercial System Relief Program (CSRP or Rider S), its Distribution Load Relief Program (DLRP or Rider U), the Direct Load Control Program (DLC or Rider L), and to eliminate the Critical Peak Rebate Program (CPRP or Rider T). The petition also proposes changes to the Company’s non-tariffed Network Relief Program (NRP) and the Residential Smart Appliance Program (RSAP) to improve the economic and operational potential for both programs. We have reviewed the Company’s proposed changes to its DR programs and, as discussed below, approve the tariff amendments and NRP and RSAP changes with modifications.
BACKGROUND

The Demand Response Proceeding was initiated by our February 17, 2009 Order\(^1\) in which the Company was directed to assess and develop DR programs in coordination with the New York Power Authority along with other service companies. In response to the Order, the Company filed proposals for several DR programs on June 1, 2009 which were adopted in part in our October 23, 2009 Order.\(^2\)

After one summer, 2010, of the DR programs being active, the Company filed several changes to encourage enrollment, improve customer performance and streamline the programs to maximize benefits to the customers and the Company. In our January 20, 2011 Order\(^3\), we approved these changes with modifications and additional directives, including requiring the Company to submit a revised plan for customer access to real-time meter data during DR events and notification periods. That plan was filed on March 21, 2011 and approved on July 14, 2011.\(^4\)

THE COMPANY’S PROPOSAL

Rider L – Direct Load Control

There are approximately 25,000 customers participating in the Company’s DLC program with accounting for more than 34 MW of peak demand load. Presently, the Company claims that there is confusion among the program participants regarding the differentiation between two events: system contingency events and peak shaving events. According to Con Edison, this confusion has caused increases in operational costs that it hopes to address with its proposed tariff amendments. The Company proposes that the

\(^1\) Case 09-E-0115, Proceeding on Motion of the Commission to Consider Demand Response Initiatives, Order Instituting Proceeding (issued February 17, 2009).

\(^2\) Case 09-E-0115, supra, Order Adopting in Part and Modifying in Part Con Edison’s Proposed Demand Response Programs (issued October 23, 2009) (October 2009 Order).

\(^3\) Case 09-E-0115, supra, Order Adopting Modifications to Demand Response Programs (issued January 20, 2011).

\(^4\) Case 09-E-0115, supra, Untitled Order (issued July 14, 2011) (DR Data Access Order).
DLC program be revised to allow all customers enrolled in the DLC program to participate in reducing load in both types of situations.

**Rider U – Distribution Load Relief Program**

This program provides incentives to customers to curtail some of their demand or by using on-site generation to temporarily reduce their system demand and provide relief to the electric distribution system. The Company claims that the original intent of this program did not include incentives to customers to export electricity from on-site generation because there are other programs in which customers may be compensated for exporting electricity generated on-site. Therefore, the Company states it is proposing to amend its tariff to clarify the intent and operation of this program to reduce confusion. Specifically, the proposed revisions would prevent DG participation from exporting energy to the grid (providing power in excess of the building load) and exclude Service Classification (SC) No. 11 Buy-Back customers. This revision would apply to both the Rider U and Rider S programs.

**Rider T – Critical Peak Rebate Program**

The CPRP program allows customers who have the ability to reduce their electric usage by at least one kilowatt (kW) during events. Customers are incented by a payment made based on their kWh reduction. Under the CPRP, customers are separated into two groups, large customers with demands of at least 250 kW and small customers with demands of less than 250 kW. The program for larger customers is very similar to the Company’s Commercial System Relief program. The difference is that penalties or deratings associated with a load commitment are not applied. To reduce customer confusion and simplify its DR program offerings, the Company is proposing to expand its

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5 SC-11 Buy-Back service allows customers with on-site generation to sell energy and capacity to the Company at market rates.
Commercial System Relief program to include a voluntary option which would take the place of the CPRP program.

Con Edison also indicates that it is experiencing difficulties with the under 250 kW option. The high cost of participation, including the cost of equipment that must interact with Automated Meter Reading devices and the requirement of broadband internet service, along with the fact that the program is restricted to Zone J participation and lack of customer enthusiasm have resulted in only seven applicants over the past two years. The Company does not believe enrollment can be increased to the point where the program is worth continuing. For these reasons, Con Edison proposes to eliminate the CPRP program entirely.

Residential Smart Appliance Program

The RSAP program was developed to allow a wide range of residential customers to participate in DR. Participants receive a free home energy management system, and similar to the Company’s DLC program, the Company has the ability to reduce customer’s load during events, while customers retain the capability to override the Company’s action. As part of the Company’s initiative to grow DR and enroll more customers, it would like to expand its RSAP program to capture residential customers who own and operate window room air-conditioners. To do so, the Company has filed a patent application covering a peak reduction and demand response technology that would allow it to turn room air-conditioning loads on or off remotely, while allowing customers to control their units remotely as well. The Company’s technology consists of a self-installable plug-load management solution with hardware and software, with an added benefit of being able to conduct real-time tracking and control of air-conditioner energy use and ambient room temperatures. A pilot for this program, entitled CoolNYC, was conducted by the Company and its preliminary review indicates that the technology was easy for customers to install and use. The convenience of this technology combined with the relatively low price point would allow the Company to reach a larger number of
customers that it has previously. Con Edison proposes to expand the CoolNYC pilot by 10,000 air-conditioning units with a primary focus on the Greenwood load pocket. To accomplish this expansion, the Company is requesting authority to increase its onetime non-reoccurring budget of $2.2 million to $4 million for this program.

Network Relief Program

The NRP is a pilot program designed to target specific networks that are in need of system relief. Con Edison will secure long-term commitments for load shedding during regular peak periods on specific system networks. In order to secure long-term commitments, the Company would enter into a contract and provide participants with payments based on contract. According to the Company, having long term commitments enables it to more efficiently integrate DR resources into its system planning. Because the program is only authorized through 2012 Con Edison indicates that NRP as presently designed hinders the Company’s ability to effectively plan and possibly defer system capacity upgrades that would otherwise be needed. The Company proposes to continue this pilot, but seeks tariff modifications to remove the expiration date of the program.

PUBLIC NOTICE AND COMMENTS

Individual comments were also received from EnerNOC, Inc., Energy Curtailment Specialists, Inc. (ECS), the Utility Investigation Unit of the Department of State (UIU), and the Riverbay Corporation. The Company filed a supplemental engineering statement (engineering statement) on February 6, 2012 and a response to the parties on February 13, 2012. Additional comments on the engineering statement were filed by Riverbay, the NECHPI, and CPA. Additionally, comments were received from Assemblyman Michael R. Benedetto on February 23, 2012 supporting Riverbay’s objection to excluding Service Classification No. 11 (Buy-Back Service) customers from participating in the DLRP and CSRP programs. Although these response comments were submitted after the expiration of the comment period, we will consider the late comments as they tend to bolster the record before us.

DISCUSSION AND CONCLUSION

The changes proposed to the Company’s DR Programs are intended to increase the DR benefits for both customers and the Company. Based on the information provided by Con Edison and the comments of the parties, the majority of Con Edison’s proposed changes to the DR programs are reasonable and appropriate. However, the proposed changes related to the export of generation and the Customer Base Load (CBL) calculation should be modified. The following discusses the Company’s proposals and the related issues.

Rider L – Direct Load Control

We adopt the Company’s proposal to allow all customers enrolled in its DLC program to participate in both system critical situations and peak shaving situations. This change is estimated by Con Edison to result in customers being called upon for an additional two times per year and will increase the potential benefit of the program while decreasing customer confusion.
Exclusion of SC-11 Customers from participating in Rider U and Rider S

Con Edison proposes to amend its tariffs to exclude from its Rider U and Rider S load relief programs all SC-11 customers and DG customers who export energy to the grid. The Company has indicated in its filing and subsequent comments, including its engineering statement, that these DR programs were designed to support on-site generation that serve the customer and contribute to decreasing load on the system, not to incent customers to export electricity from on-site generation. In its engineering statement, the Company asserts that exporting electricity during contingency situations generally would not help alleviate the situation and could induce additional stresses to the network; however, the Company did not provide adequate support for this position.

The DG Support Group and Riverbay are opposed to prohibiting SC-11 customers from participating in the Rider U and Rider S programs. They state that on-site generation and DG contribute to system reliability and could provide support to the system during contingency situations. During these situations, they believe the Company may not be able to supply the customer’s required load if the customer ceased on-site generation. For these reasons, they request that base loaded DGs be compensated for their contribution to system reliability and for the possibility of not being supplied from the network. Riverbay and the DG Support Group recommend that the CBL method not be applied to base loaded DGs so that they can receive payments under Riders U and S for the reliability they provide. In addition, they recommend that the Company forgive the standby service contract demand charges to customers on those networks that require relief.

The DR programs were implemented to decrease the demand on the system during system contingencies and peak shaving events. To accomplish this, DR programs incent customers to decrease their demand on the electrical distribution system, either through decreasing their load and/or by employing on-site generation resulting in a decrease in demand on the system. Base loaded DGs that were operating prior to a contingency situation and that continue to operate at the same capacity through the
contingency provide no change in demand on the system and therefore should not receive any DR program related payments. In addition, base loaded DGs were designed and installed for economic reasons beyond the potential revenue streams related to DR. For these reasons, the parties’ request to exclude the application of the CBL method to base loaded DGs is rejected.

The DR programs should not provide compensation to customers for the risk of the Company not meeting its service obligation. System contingency and peak shaving events are not outages, and therefore the Company continues to have the ability to serve. Since the Company does not fail to provide service during these events, the DG Support Group’s request that the Company’s forgive the standby service contract demand charges for customers is denied.

The engineering statement provided by Con Edison states that exporting additional generation during contingency events could harm the system and not help to alleviate the contingency. However, the Company also suggests there are instances in which additional generation could prove valuable to the system and the emergency event. DG is a growing resource and could provide beneficial generation to the system during events. Also, the Company states in its response to Staff’s interrogatory DPS-1 that DG is not currently shutdown during contingency events. The Company should continue to support DG and have to ability to take advantage of its potential benefits. To do so, the Company should be actively managing these resources to ensure these benefits are attained. In instances where a SC-11 customer has the capability to export electricity during an event, the Company should, on a case by case basis, evaluate the potential benefits to the system of the participant’s pledged kW level and the CBL performance measure should continue to apply. Therefore, we find that SC-11 Buy-Back customers shall be allowed to participate in the Company’s DR offerings and receive the applicable reservation payments for the distribution-related benefits subject to the existing performance measures set forth by the programs. Furthermore, SC-11 customers who enroll in the Company’s DR programs should receive the appropriate DR energy
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payments for the energy delivered during an event for the amount of incremental
generation pledged, in place of the otherwise applicable SC-11 energy payments, thereby
avoiding any double energy payment.

CBL verification method Change from ECS

Currently, Con Edison eliminates all of its DR program deployment event
dates from each program’s CBL calculation. However, some customers are not enrolled
or participate in all of the Company’s DR programs. ECS, supported by EnerNOC,
proposes that the Company amend the CBL method to not exclude program event dates
in which a customer is not enrolled. This would allow for a more accurate evaluation of a
customer’s performance based on the actual programs in which the customer is enrolled.
For this reason, we direct the Company to submit revised tariffs to reflect this
determination.

Rider T – Critical Peak Rebate Program

Con Edison proposes to eliminate this program. Currently, the Company
has a similar program, CSRP, which would be expanded to include a voluntary option for
existing large commercial customer participants of the CPRP-Large program. The
Company states that smaller commercial customers were solicited for the small customer
portion of the program, CPRP-Small, through direct mailing resulting in minimal
response and no potential program participants. Because this portion of the program is
not being taken advantage of, we will allow the Company to eliminate this program and
create a voluntary participation option in the Company’s CSRP program to accommodate
existing large customer participants of Rider T.

Residential Smart Appliance Program

The Company proposes to further develop its RSAP program. As of
January 31, 2011, Con Edison has spent $1.58 million and indicates that it expects to
spend a total of $1.97 million by the final year of the program. To expand the existing pilot program for residential room air-conditioning units by 10,000 units, the Company is requests an increase to its initial non-reoccurring budget of $2.2 million. No party opposes this program change and the change should allow for the program to capture more of the city’s residential window air-conditioning load. Therefore, we grant the Company’s request for an additional $1.8 million for this program’s total non-reoccurring budget.

Network Relief Program

Currently, this program is approved through 2012 and the Company proposes we extend it indefinitely. The Company has not received formal responses to requests for proposals (RFPs) issued for the NRP, but has been in discussions with one of the RFP recipients. According to Con Edison, the program should be given more time to establish itself. We will extend the NRP for two years so that RFPs may be issued to potential participants and contracts may be entered into between the Company and enrollees. However, while the enrolment process has a defined time period, the contracts entered into may go beyond this period. As this program progresses and contracts extend beyond the enrollment period, we will be able to review this program’s performance based on the Company’s annual DR evaluation report.

DR Data Requests

An allegation that has been raised in this proceeding by ECS is that the Company fails to provide DR data to its customers in a timely manner. ECS asserts that, currently, there are no rules in place that ensure customers receive their DR data in a reasonable amount of time. ECS believes that guidelines should be developed and penalties be imposed on the Company for not supplying customers the DR data they request in a timely manner. EnerNOC, however, believes that this recommendation is unnecessary and unwarranted. EnerNOC states that it is the customer’s responsible to
employ the necessary infrastructure to capture the data needed, and not the responsibility of the Company.

We approved the Company’s plan to provide real-time access to meter data in the Commissions DR Data Access Order and the Company continues the deployment of this plan with no changes. We encourage the Company to work with participants during the transition period.

**Environmental Justice Issue**

Riverbay has stated that it should receive special consideration for meeting demand in an Environmental Justice (EJ) area and for displacing higher emitting generating facilities. We addressed the generating resources to be funded under the Company’s DR programs in EJ areas in our October 2009 Order. That is, participation by diesel-fired distributed generation outside of environmental justice communities is currently capped at 20% of the MW enrollment in the peak shaving programs. Furthermore, the participation of diesel-fired distributed generation engines within this cap are limited to engines of model year 2000 or newer. There is currently no limit or cap on natural gas-fired distributed generation equipment that incorporates three-way catalyst emission controls, or lean burn engines of model year vintage 2000 or newer, outside of environmental justice areas. In addition, participation of any DG within one-half mile of the gas turbines located at Gowanus, Narrows, Hudson Ave. (Brooklyn), Astoria (Queens), 59th Street (Manhattan, West Side) and 74th Street (Manhattan, East Side) is prohibited. All customers including SC-11 customers who are allowed to participate in the peak shaving programs under the tariff amendments directed herein must continue to abide by the restrictions in our order to protect identified environmental justice communities from undue burdens associated with the possible increased use of DG in and around their communities.
The Commission orders:

1. Consolidated Edison Company of New York, Inc.’s tariff amendments listed in the Appendix shall be allowed to become effective, provided that the Company files further revisions incorporating the modifications contained in the body of this Order, to become effective on not less than one day’s notice on March 19, 2012.

2. Consolidated Edison Company of New York, Inc. shall file further revisions to its new schedule, PSC No. 10 – Electricity, incorporating the amendments listed in the Appendix and the directed further revisions in Clause No. 1, into electronic format, to become effective on not less than one day’s notice on March 19, 2012.

3. The requirement of Public Service Law §66(12) and 16 NYCRR 720.8.1 regarding newspaper publication of the further revisions directed in Clause Nos. 1 and 2 is waived.

4. The Secretary, at her sole discretion, may extend the deadlines set forth in this order.

5. This proceeding is continued.

By the Commission,

(SIGNED) JACLYN A. BRILLING
Secretary
SUBJECT: Filing by CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

Amendments to Schedule P.S.C. No. 9 – Electricity

Second Revised Leaves Nos. 62-A, 158-P-1, 158-P-2, 158-P-4, 158-P-8, 158-P-10, 158-P-11, 158-R-7, 158-R-8
Third Revised Leaves Nos. 158-P-5, 158-P-6, 158-P-7
Fourth Revised Leaf No. 158-P-9
Fifth Revised Leaves Nos. 141, 158-R-5
Sixth Revised Leaves Nos. 158-K, 158-P-3, 158-R-2, 158-R-3, 158-R-4
Seventh Revised Leaf No. 158-P
Eighth Revised Leaves Nos. 158-M, 158-Q-1
Tenth Revised Leaves Nos. 140, 158-J, 158-N, 158-R-1
Eleventh Revised Leaf No. 158-Q
Thirteenth Revised Leaf No. 62
Fourteenth Revised Leaf No. 158-O
Fifteenth Revised Leaf No. 158-R
Eighteenth Revised Leaf No. 158-L
Twenty-First Revised Leaf No. 3

Issued: November 17, 2011  Effective: February 23, 2012*

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