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Vice President
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January 9, 2014

By Electronic Mail
Hon. Kathleen H. Burgess
Secretary to the Commission
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223

**Re: Cases 13-E-0030; 13-G-0031; 13-S-0032
Con Edison Electric, Gas and Steam Rate Cases
Statement in Support of Joint Proposal**

Dear Secretary Burgess:

In accordance with the *Ruling on Case Schedule* issued on December 9, 2013 in the captioned proceedings, attached for filing please find Consolidated Edison Company of New York, Inc.'s Statement in Support of the Electric, Gas and Steam Joint Proposal.

Very truly yours,

c: Hon. Paul Agresta (via electronic mail)
Hon. Julia S. Bielawski (via electronic mail)
Hon. Eleanor Stein (via electronic mail)
Hon. Kimberly Harriman (via electronic mail)
All Active Parties in Cases 12-E-0030; 12-G-0031; 12-S-0032 (via electronic mail)

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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- Case 13-E-0030 Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric Service
- Case 13-G-0031 Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Gas Service
- Case 13-S-0032 Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Steam Service
- Case 13-M-0376 Petition of Consolidated Edison Company of New York, Inc. for Approval of Proposed Distribution of a Property Tax Refund
- Case 13-M-0040 Petition of Consolidated Edison Company of New York, Inc. for Approval of Accounting Treatment of the Proceeds of the Proposed Sale of Property
- Case 09-E-0428 Proceeding on Motion of the Commission as to the Rates, Changes, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric Service
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**STATEMENT IN SUPPORT OF
ELECTRIC, GAS AND STEAM JOINT PROPOSAL**

Dated: January 9, 2014
New York, New York

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**STATEMENT IN SUPPORT OF
ELECTRIC, GAS AND STEAM JOINT PROPOSAL**

I. Preliminary Statement

On December 31, 2013, Consolidated Edison Company of New York, Inc. (“Con Edison” or the “Company”), New York State Department of Public Service Staff (“Staff”), New York Power Authority (“NYPA”), the City of New York (“City” or “NYC”), Utility Intervention Unit, Division of Consumer Protection, New York State Department of State (“UIU”), Consumer Power Advocates (“CPA”), New York Energy Consumers Council, Inc. (“NYECC”), Astoria Generating Company, L.P. (“AGC”), the Pace Energy and Climate Center (“Pace”), the Columbia Center for Climate Change Law (“CCCL”), the Environmental Defense Fund (“EDF”), and NRG Energy (“NRG”) entered into a Joint Proposal (the “Proposal”) to resolve the issues raised in the above-captioned

proceedings. Among other things, the Proposal provides for establishment of new rates for Con Edison's electric service ("Electric") for a two-year period from January 1, 2014 through December 31, 2015 ("Electric Rate Plan"), and for Con Edison's gas and steam services ("Gas" and "Steam") for a three-year period from January 1, 2014 through December 31, 2016 ("Gas Rate Plan" and "Steam Rate Plan", taken together all three are referred to as "Rate Plans").

The Proposal was filed with the New York State Public Service Commission ("Commission") on December 31, 2013. Pursuant to a *Ruling on Revised Case Schedule* issued on December 9, 2013, by Administrative Law Judges Paul Agresta and Julia Smead Bielawski, the presiding litigation judges in this proceeding, Con Edison submits this Statement in Support of the Electric, Gas and Steam Joint Proposal ("Statement").

The Proposal provides customers with rate predictability for the duration of the rate plans; provides the Company with funds needed to build, operate and maintain safe and adequate electric, gas and steam systems, including funds for storm hardening and resiliency projects and programs; provides for returns to Company investors expected to enable the Company to raise capital at reasonable terms and to maintain the financial integrity essential to provide access to the capital markets; reflects various measures to mitigate rate increases; imposes on the Company increased responsibility to perform efficiently and increased risks for bearing cost increases outside the Company's direct control; enhances the Company's low income customer discount program; enhances certain electric, gas and steam safety, reliability and customer service performance metrics and associated revenue adjustments; adds new performance metrics for electric and gas; and addresses various other issues and concerns raised by the parties during the course of these proceedings.

The Proposal addresses these issues in a manner that allowed most of the active parties to the proceedings to support the Proposal or not to oppose the Proposal.

As set forth below, the Proposal fully satisfies the Commission's settlement guidelines, and should be adopted by the Commission in all respects and without modification.¹

II. Standard of Review

The Proposal is just, reasonable and in the public interest and therefore, meets the Commission's threshold requirement for adopting proposed settlements. Factors the Commission considers in determining whether a settlement proposal is in the public interest include: consistency with State law and policies; whether the result compares favorably with the likely result of full litigation; a fair balance among interests of customers and the Company; and a rational basis for decision.²

Appropriate notice of settlement negotiations was made in accordance with 16 NYCRR §3.9 (a). All active parties were provided the opportunity to fully participate in settlement discussions and were advised of all negotiation meetings and/or teleconferences. On October 18, 2013, Administrative Law Judge Kimberly A. Harriman was appointed as the Settlement Judge for these proceedings. Judge Harriman participated in most of the settlement discussions held after that date. Agreement was reached after following all applicable Commission settlement procedures.

The record in these proceedings is extensive and provides a rational basis for a Commission decision adopting the Proposal. In addition to the Company, seventeen other parties submitted pre-filed testimony in these proceedings, comprising thousands of pages of testimony. Evidentiary hearings, which lasted for two weeks (July 22, 2013-August 2, 2013), included testimony from 52 witnesses and nearly 1,000 exhibits.

¹ This Statement does not address all of the provisions of the Proposal, but, rather focuses on matters that were the subject of significant difference of opinion in litigation or are otherwise relatively more significant for any of a variety of reasons. That any particular provision of the Proposal is not addressed in this Statement is not, and should not be construed to be, an indication that the Company believes that such provision is (i) not an important element of the comprehensive resolution of all issues in these cases, or (ii) not just and reasonable in the context of the Proposal as a whole and should not be adopted by the Commission.

² Case 90-M-0255, *Proceeding on Settlement Procedures and Guidelines*, Opinion No. 92-2 (issued March 24, 1992).

In fact, the Signatory Parties represent a broad range of diverse interests, including major commercial, residential, low income and governmental customers and/or their representatives, electric generators, retail energy marketers, and environmental advocacy organizations. In terms of balancing the interests of customers, the Company and other important stakeholders, the Proposal reflects compromises of the widely-differing viewpoints of the numerous participants in the settlement process, including those of non-signatory parties. The Proposal contains many provisions that were very difficult for the Company to accept. A driving factor in the Company's consideration and support of the Proposal was the benefit of multi-year Rate Plans, which will allow the Company to focus on operational improvement opportunities in each service, promoting desired Company-wide progress toward increased effectiveness. The Proposal provides the Company with significantly lower revenues than the Company sought and greater challenges in meeting its service obligations.

The settlement process enabled parties to fully explore their respective positions and reach a compromise. As with any compromise, individual provisions of the Proposal may not be to the liking of one or more parties, and all parties, including, most significantly, the Company, made substantial and difficult concessions to reach this agreement. Given the wide range of complex issues presented and the inherent litigation risk, the Company ultimately concluded that the Proposal was reasonable on an overall basis, accepting the many features of the Proposal that were a significant departure from the Company's position as part of the give and take inherent in any compromise. As explained more fully in the sections that follow, the Proposal is within the reasonably expected range of potential litigated outcomes.

III. Provisions of Joint Proposal

A. Rates and Revenue Levels

The Proposal recommends that the Commission adopt a two-year Electric Rate Plan commencing January 1, 2014 and continuing through December 31, 2015, and a three-year Gas Rate

Plan and a three-year Steam Rate Plan each commencing January 1, 2014 and continuing through December 31, 2016. Underlying each rate plan is a revenue requirement decrease in RY1 followed by increases in the subsequent rate year(s).³ For electric, the Proposal produces a \$76.192 million revenue reduction in RY1 followed by a \$123.968 million revenue increase in RY2. For gas, the Proposal produces a \$54.602 million revenue reduction in RY1 followed by revenue increases of \$38.620 million in RY2 and \$56.838 million in RY3. For steam, the Proposal produces a \$22.358 million revenue reduction in RY1 followed by a \$19.784 million increase in RY2 and a \$20.270 million increase in RY3. In order to provide rate stability over the terms of the Rate Plans, the rate changes are designed to avoid annual rate changes, through the use of deferral accounting, accrual of carrying charges and use of temporary bill credits, so as to achieve levelized annual revenue changes of zero.⁴ In order to effectuate the changes in rates being effective as of a date earlier than the issuance of the Commission's order in these proceedings due to extensions of the statutory suspension period, the Proposal contains a "make whole" provision and describes the manner in which it will be implemented.

The revenue requirements reflected in the Proposal are significantly less than those reflected in the Company's initial filing although they do reflect the Company's proposal to spend over \$1.0 billion on electric, gas and steam infrastructure for storm hardening and resiliency projects during the period 2013 through 2016.⁵

³ The Rate Years are calendar year 2014 ("RY1"), calendar year 2015 ("RY2") and calendar year 2016 ("RY3").

⁴ There are revenue changes within the service classes resulting from settlement of electric and gas revenue allocation and rate design among parties with varying interests and constituencies. Revenue changes by service class for electric are in Appendix 20 and for gas in Appendix 21 to the Proposal. No such changes are applicable to steam. Comparisons of monthly bills at various consumption levels for electric and gas service classifications at both present rates and the RY1 rates under the Proposal were also filed on December 31, 2013. The Company notes that these bill impacts are necessarily based upon assumptions regarding a number of cost elements that may move up or down during the term of the rate plans (*e.g.*, electric and gas supply market prices) affecting customers' total bills.

⁵ Although the Company's filing requested increased revenues for a single rate year, the Company presented, for illustrative purposes, financial forecasts and information for second and third rate years to facilitate settlement discussions for multi-year rate plans in the event parties had interest in doing so.

The recommended rate changes adopt many of the adjustments that Staff proposed in direct testimony, in addition to adjustments proposed by other parties, and also reflect many of the same methodologies used to establish rates under the existing electric, gas and steam rate plans. For example, the forecasts for property taxes in the revenue requirements use the same methodology as was used to develop the revenue requirements under the existing rate plans.

Although the Company accepted certain cost and expense adjustments for purposes of achieving a resolution of all of the issues in this proceeding, the Company's acceptance should not be construed as acknowledging such costs to be avoidable, unnecessary, unreasonable or unrecoverable in the context of providing safe and adequate service to its customers (*e.g.*, the proposed rates do not reflect the full costs associated with the Company's current pension obligations; reflect lower projections of Municipal Infrastructure Support expenses; and reflect productivity imputations beyond the traditional one percent imputation). Accordingly, the proposed rates present significant challenges for the Company.

The Proposal reflects a return on common equity ("ROE") of 9.2% for the two-year term of the Electric Rate Plan and 9.3% for the three-year terms of the Gas and Steam Rate Plans. These returns are reductions from those under the Company's current rate plans (10.15% for electric and 9.6% for gas and steam) and substantially lower than the return of 10.1% for a single-year rate plan and 11.1% for a multi-year rate plan established by the Company's cost of capital witness.⁶ The ROEs under the Proposal are reflective of the Commission's continuing adherence to a cost of capital framework that routinely establishes returns that are at the lower end of the range of returns within the utility industry. Moreover, these allowed returns cannot be achieved absent the Company's ability to achieve productivity savings that exceed the imputed amounts and thereby offset, for

⁶ The returns reflected in the Proposal are "all in" returns and do not represent the result of an agreed-upon base return plus an agreed-upon stay out premium.

example, unavoidable costs that are not reflected in rates (*e.g.*, the full cost of the current pension obligation).

In addition, the overall cost of capital reflected in the Proposal limits the equity ratio to 48% despite the Company's current equity ratio actually approximating 50%.

For the foregoing reasons, the provisions related to ROE and overall costs of capital were very difficult for the Company to accept but were ultimately accepted by the Company in the context of all of the other provisions of the Proposal and in recognition of current Commission policy regarding returns on equity for both one-year and multi-year rate plans. Absent the other provisions of the Proposal, the ROE would not be acceptable to the Company.

1. Revenue Decoupling Mechanisms

The Proposal continues the Company's electric Revenue Decoupling Mechanism ("RDM") and gas Revenue Per Customer ("RPC") revenue decoupling mechanisms. Consistent with current Commission policy, these mechanisms reconcile forecasted sales revenues in a manner designed to eliminate a Company disincentive to promote energy efficiency.⁷ Although no party proposed that such mechanisms be discontinued, issues were raised regarding the customer classes to which these mechanisms should apply or should not apply, and the impact of surcharges on certain customer classes. Ultimately, the Signatory Parties concluded that the mechanisms should continue with only minor modifications.

The modifications to the electric RDM are primarily designed to mitigate the impact on small customers of a potential RDM surcharge where a large customer exiting a class may have a disproportionately large impact on the customers remaining in that class. To achieve that objective, the Proposal provides for the Company to combine (i) Service Classification ("SC") 2 and SC6, and

⁷ The Company did not propose a revenue decoupling mechanism for steam in these proceedings, without waiving its right to do so in a future proceeding. The Company proposed a weather normalization clause, consistent with the mechanism currently in place for the Company's gas service. The proposal received substantial opposition. The Company agreed to not further pursue such a clause in these proceedings in order to reach a comprehensive settlement.

(ii) SC5 and SC9 – for purposes of RDM reconciliations. The Proposal also provides that either the Company through a tariff filing, or any party by petition to the Commission, may propose an adjustment to the currently-effective RDM targets if the Company/party believes that circumstances are resulting in anomalous results unduly impacting certain customers. Any proposed changes to RDM targets are to be revenue neutral to the Company.

For gas, the RPC mechanism will now apply to all oil-to-gas (“OTG”) conversion revenues. The current gas rate plan excludes OTG conversion costs and revenues associated with the implementation of the City’s Nos. 4 and 6 Clean Heat Rules, because those rules were not yet implemented when the current gas rate plan was developed and the impact of those rules was very uncertain. As discussed in more detail below, OTG conversions are now a very robust part of the Company’s operations, and the associated projects and programs are fully reflected in Company forecasts and should therefore be captured by the RPC mechanism.

2. Gas Non-Firm Revenues

Con Edison gas rate plans have traditionally included a base rate revenue imputation attributable to Non-Firm Revenues, which are revenues that the Company generates, for example, through the Company’s administration of its interruptible service program and the Company’s efforts to maximize value from interstate pipeline capacity acquired to meet the needs of firm gas customers, through strategies such as capacity release and asset management transactions.

The Proposal enhances short-term benefits to the Company’s firm gas customers through modifications to the current mechanism. Specifically, in contrast to the current and past Non-Firm Revenue sharing mechanisms, the amount of anticipated Non-Firm Revenues imputed in rates to reduce firm rates under the Proposal has been materially increased (*i.e.*, from \$53 million to \$65 million), and the Company’s opportunity to share in revenues achieved at or above the imputed level

materially reduced.⁸

Since the Company does not believe that diminishing this long-standing incentive is in customers' long-term interest, or that there were any facts in the record that provided a basis for modifying the framework of the existing incentive, the Company found this materially diminished incentive difficult to accept, but accepted it nonetheless in the context of a comprehensive resolution of all the issues.

3. Energy/Supply/Fuel Adjustment Mechanisms

The Proposal recommends continuation of standard, currently-effective adjustment mechanisms that provide for recovery of various supply and supply-related costs, including purchase power costs and costs of embedded generation (MSC/MAC mechanism),⁹ gas supply and supply-related costs (MRA, GCF and WACOC),¹⁰ and steam fuel costs (FAC).¹¹ As explained below, the Proposal also resolves issues relating to the recovery of certain costs through these mechanisms, and provides additional clarity regarding the recovery of similar costs through these adjustment mechanisms on a going-forward basis.

a) PJM OATT Charges

The Proposal addresses the prudence and allocation of charges that PJM Interconnection L.L.C. ("PJM") assesses for a 1000 MW firm transmission service pursuant to PJM's Open Access Transmission Tariff ("OATT"), which service commenced on May 1, 2012. The Commission's February 14, 2013 *Order Denying Petition for Recovery of Charges* in Case 09-E-0428 ("PJM OATT Order") directed that the prudence and recovery mechanism for those charges be considered in these

⁸ Under the current gas rate plan, the Company is authorized to retain 100% of the first \$58 million of Non-Firm Revenues achieved (providing the opportunity for a \$5 million incentive) plus 25% of any revenues above \$58 million. Under the Proposal, the Company's share is limited to 15% of any revenues achieved in excess of \$65 million.

⁹ Monthly Supply Charge ("MSC") and Monthly Adjustment Clause ("MAC").

¹⁰ Monthly Rate Adjustment ("MRA"), Gas Cost Factor ("GCF") and Weighted Average Cost of Capacity ("WACOC").

¹¹ Fuel Adjustment Clause ("FAC"). The Proposal also adopts Staff's position to reduce the base cost of fuel by \$2.7 per Mlb to \$7.349 per Mlb, based on (1) the actual monthly fuel costs and sales for the 12 month period ending November 2013 and (2) the Company's forecasted monthly fuel costs and sales for RY1.

proceedings. On March 18, 2013, the Company filed a Petition for Rehearing of the PJM OATT Order.

In response to the PJM OATT Order, the Company submitted testimony in these proceedings demonstrating the prudence of contracting for the PJM OATT service and proposing a recovery mechanism for these charges. The Proposal acknowledges that the Company acted prudently in contracting for the PJM OATT service; recommends full recovery of all charges for the service commencing January 1, 2014 and partial recovery of the charges for the service prior to that date; recommends that the charges be allocated between Con Edison customers (recoverable through the MAC) and NYPA (recoverable through a separate surcharge for the PJM OATT costs) based on the percentage allocation of T&D revenues included in the revenue allocation for each Rate Year (subject to a \$4.6 million annual limit on the allocation to NYPA for the period commencing January 1, 2014); and terminates the Company's Petition for Rehearing in Case 09-E-0428.

The evidentiary record amply supports the need for the PJM OATT service and the reasonableness of its costs. The service provides demonstrated reliability and economic benefits at a much lower cost than alternative arrangements might have. The allocation of a portion of the service costs to NYPA and the partial recovery of the pre-2014 charges (and the related termination of the Company's Petition for Rehearing) represent compromises that the Parties reached as a component of the overall resolution of issues in these proceedings. Accordingly, the proposed resolution of the allocation of the PJM OATT service charges reflects the evidentiary record and reasonably allocates those charges among the Company's customers.

b) Transco Heater/Odorization Project

The Proposal acknowledges the Company's plans to contract with Transcontinental Gas Pipe Line ("Transco") to construct, own and operate certain natural gas heaters and supplemental odorization equipment required in connection with the Company's provision of safe and adequate gas service ("Transco heater/odorization project"), to reimburse Transco for the costs of this project

through a FERC-approved surcharge,¹² and for the Company to recover these FERC-approved charges through one or a combination of the Company's gas cost adjustment mechanisms (*i.e.*, GCF, MRA and/or WACOC).

The Company provided testimony explaining the need for this equipment and why it was in the best interest of customers for the Company to contract with Transco to provide this equipment and related services rather than for the Company to build, own and operate this equipment on its own system. The Proposal reflects the agreement of the Signatory Parties that the Transco heater/odorization project is the preferred alternative and that the costs be recovered through one or a combination of the gas adjustment mechanisms.

Since the exact cost of the Transco project is not yet known and will be resolved in a FERC filing to be made by Transco, the Proposal makes the recovery of these Transco charges subject to a Company tariff filing that will demonstrate the reasonableness of the charges payable to Transco for the project, and explain the mechanism(s) (*i.e.*, GCF, MRA and/or WACOC) through which the Company proposes to recover these charges.

c) Other Charges

The Proposal recognizes that the Company may be subject to various other governmental and/or RTO-like and/or generation-related charges, costs or credits (*e.g.*, FERC, NYISO,¹³ PJM, EPA¹⁴) not already listed in or otherwise covered by the then-effective MAC/MSO, GCF/MRA/WACOC, or FAC tariff language, and that the Company may make a tariff filing with the Commission providing for recovery of such charges/costs, or application of these credits, through these mechanisms and/or a comparable adjustment mechanism(s). The Proposal also recognizes that the proposed tariff amendment may include charges/costs/credits applicable to the period prior to the effective date of the tariff.

¹² Federal Energy Regulatory Commission ("FERC")

¹³ New York Independent System Operator ("NYISO")

¹⁴ United States Environment Protection Agency ("EPA")

4. Lost And Unaccounted For Gas (“LAUF”)

The Proposal establishes how the line loss factor (“LLF”) will be established for the period of the Gas Rate Plan, how the LAUF target will be set, and the parameters around the LAUF target that will trigger Company absorption of costs or retention of benefits. The LAUF mechanism reflects a departure from the Company's currently-effective LAUF mechanism and is consistent with the White Paper on LAUF developed by Staff to guide the treatment of LAUF in gas utility rate cases.¹⁵ The revised LAUF mechanism provides for an increase in the contribution of generation customers to the LLF (from 0.1% to 0.5%), which will reduce the cost of line losses to the Company's other gas customers.

Other than the appropriate contribution to be made by generation customers, the revised LAUF mechanism was uncontested. The Proposal reasonably addresses the concern that the contribution from generators may overstate their responsibility for line losses, by providing for the Company to conduct a study to further evaluate line losses associated with the Company's transmission facilities, and for the Company to initiate a collaborative to consider the impact on line losses from deliveries among the New York Facilities owners.

5. Steam Variance

The Proposal reasonably addresses the Steam System Variance (*i.e.*, the variation between steam sales and steam sendout). While there was general consensus for maintaining a Steam System Variance mechanism, there was disagreement as to the appropriate framework of the mechanism, with a focus on the levels at which steam losses should trigger either an incentive or penalty. The Proposal reasonably resolves the different positions on this matter by maintaining the existing framework for assigning cost responsibility for variations in steam losses, while changing the dead-band levels above and below which the Company will either be assessed a penalty or earn an incentive, respectively. Specifically, the Proposal lowers the dead-band from between 3,900 MMlb

¹⁵ Exhibit 590 in this proceeding.

and 4,200 MMlb to between 3,600 MMlb and 4,000 MMlb. The new dead-band reflects more recent performance of the steam system as respects actual steam losses.

B. Computation and Disposition of Earnings

An Earnings Sharing Mechanism (“ESM”) under which a utility shares with customers earnings above pre-established thresholds is a traditional component of Company and other utility multi-year rate plans. An ESM is intended to balance the interests of parties who are concerned that a utility’s earnings under a multi-year rate plan may significantly exceed projected earnings, and the interests of parties, like the Company, who maintain that customers will derive greater benefits from rate mechanisms that eliminate sharing requirements for the period of a rate plan and thereby produce stronger earnings and efficiency incentives that will redound to customer benefit in the long term. The ESMs for electric, gas and steam under the Proposal vary from those under the current electric, gas and steam rate plans in ways that significantly favor the interests of customers in the short-term (*i.e.*, during the terms of the Rate Plans).

One variation of the ESMs under the Proposal compared to the existing ESMs is the period over which earnings are measured. The current electric ESM measures earnings on a cumulative basis over the last two rate years of the rate plan and the ESMs for gas and steam do so over the full three-year terms of the rate plans. Under the Proposal, earnings sharing will be assessed each Rate Year independently of earnings in any other Rate Year. This change is advantageous to customers at the risk of the Company because earnings in any Rate Year that are above the earnings sharing threshold can no longer be offset by earnings that are below the earnings threshold in any other Rate Year.¹⁶

A second variation relates to the historical approach of calculating the return on common equity on a “per books” basis with customary adjustments. Although the Proposal continues the “per

¹⁶ The ESM does not contain a sharing “floor” below which a deficiency in earnings lower than forecast are shared between the Company and shareholders.

books” approach, the calculation now excludes certain costs that increase the possibility of customers sharing in earnings under the ESM.¹⁷ In addition, the calculation of shared earnings for steam now provides for imputing earnings to offset the effects of warmer than normal weather on steam sales.

As a further benefit to customers, the Proposal continues a provision endemic to recent Con Edison rate plans that provides for 50% of the Company’s share of any shared earnings to inure to the benefit of customers, as opposed to shareholders, in that 50% of the Company’s share will be used to reduce deferred Site Investigation and Remediation (“SIR”) costs that would otherwise remain deferred for future collection from customers. The application of a portion of the Company’s share of shared earnings, as well as the full customer share of any shared earnings, to offset deferred SIR costs is responsive to the Commission’s expectation that negotiation of ESMs in rate plans explore the opportunity to allocate some portion of shared earnings to offset SIR costs.¹⁸

The Company’s agreement to the restructured ESMs reflect another material concession made by the Company in return for other elements of this comprehensive settlement.

C. Capital Expenditures and Net Plant Reconciliation

1. Capital Expenditures

The rates established by the Proposal reflect forecasted capital expenditures by the Company for a myriad of projects and programs necessary for the Company to maintain its high levels of safety, reliability and service that customers and other stakeholders have come to expect and rely on. These projects and programs were thoroughly examined through the course of an extended discovery period and two-week hearing. The Signatory Parties reached consensus on the capital dollars necessary to properly and timely implement these projects and programs.

¹⁷ The costs, which pertain to electric, gas and steam, are the amount of expense for the Company’s Executive Incentive Program and a material portion of the expense and rate base carrying charges for the Company’s Supplemental Retirement Income Plan (“SRIP”).

¹⁸ Case 11-M-0034, *Order Concerning Costs for Site Investigation and Remediation* (issued November 28, 2012), p. 12 (“SIR Order”).

The Proposal also continues, with some modifications discussed below, downward-only net plant reconciliation mechanisms designed to address concerns that customers not pay for capital dollars reflected in rates that the Company does not actually spend on such programs. At the same time, the Proposal recognizes that the Company requires flexibility over the term of the Rate Plans to modify the list, priority, nature and scope of its capital programs and projects.

A number of projects and programs received particular focus and are addressed in more detail in the Proposal. They include projected expenditures for storm hardening, replacement of leak prone pipe, and facilitating OTG conversions, and making greater use of technology and greater reliance on customer resources.

a) Storm Hardening and Resiliency

On October 29, 2012, Superstorm Sandy struck the Company's service territory and other parts of the Northeast, devastating communities and the Company's energy systems. In these proceedings, Con Edison proposed investments totaling approximately \$1 billion in new capital initiatives for years 2013 through 2016 to mitigate impacts of future extreme weather. These initiatives are designed to improve the resiliency of Con Edison's electric, gas and steam infrastructure by making delivery and generation structures and equipment more resistant to weather-induced failure and by reducing the time for restoring service to customers. In these proceedings, a number of parties filed testimony urging Con Edison to expedite storm hardening investments and to incorporate new climate change information into system planning. On the recommendation of Staff's Policy Panel, Con Edison convened a Storm Hardening and Resiliency Collaborative of interested parties ("the Collaborative"), facilitated by Administrative Law Judge Eleanor Stein, to consider the Company's storm hardening proposals and related matters. On December 5, 2013, the Company filed with the Commission a report describing the activities of the Collaborative, the Company's proposals for capital programs and projects to storm harden its electric, gas and steam systems during RY1, RY2, and RY3, and proposals by various working groups within the

Collaborative for additional initiatives to improve the resiliency of the Company's systems.¹⁹ The Proposal recommends continuation of the Storm Hardening and Resiliency Collaborative and additional Commission review to consider the Company's storm hardening projects and programs to be implemented during RY2 and RY3 as well as other resiliency initiatives that may be developed by the Collaborative.

The electric, gas and steam delivery rates and charges recommended by the Proposal reflect projected expenditures of \$179.9 million and \$278.3 million in RY1 and RY2, respectively, to storm harden the Company's electric system; projected expenditures of \$5 million, \$36.5 million, and \$56.9 million in RY1, RY2 and RY3, respectively, to storm harden the Company's gas system; and projected expenditures of \$26.5 million, \$30.5 million, and \$35 million in RY1, RY2 and RY3, respectively, to storm harden the Company's steam system. The Proposal recommends that the Commission accept the forecasted RY1 storm hardening expenditures. These expenditures have been closely examined during the Collaborative, and the Storm Hardening net plant target is designed to provide customers with credits attributable to actual expenditures below forecasted levels.

To address parties' concerns that the Company's forecasted expenditures for storm hardening in RYs 2 and 3 have not yet undergone the same level of scrutiny as the Company's RY1 storm hardening projects and programs, the Proposal recommends that RY2 and RY3 expenditures be subject to additional Commission review and order in advance of each Rate Year. To support Commission review, the Proposal provides for the Company to re-convene the Collaborative in June to August in 2014 and 2015 to consider the Company's planned storm hardening expenditures for RY2 and RY3, respectively, and to file by September 1, 2014 and September 1, 2015, a report on the collaborative discussions, including the Company's recommended storm hardening projects and programs for RY2 and RY3, respectively. Following comments on the report by Staff and interested

¹⁹ Collaborative parties may file comments on the Company's report by January 10, 2014.

parties, the Commission would determine the extent to which, if any, the Company should modify its planned storm hardening projects and programs for RY2 and RY3.²⁰

The Proposal also properly recognizes that if, as a result of continuing collaborative discussions, the Commission orders new or additional storm hardening and resiliency initiatives, for which costs to implement, operate and/or maintain are unknown today and therefore are not reflected in the proposed rates, the Company should be allowed to recover associated incremental costs by surcharge, deferral or such other means as the Commission may determine.

b) Oil-to-Gas Conversions

The Company's program and forecasted expenditures for OTG conversions, particularly those resulting from the City's Clean Heat Program that is phasing out the use of Nos. 4 and 6 fuel oils, received intense scrutiny in these proceedings. Parties disagreed as to the nature of the Company's efforts to facilitate conversions, outside circumstances that unduly and adversely impact facilitation of these efforts, the extent to which Commission policies and Company tariffs should be changed to enhance conversion benefits to new applicants, and the projected costs to convert customers over the term of the Gas Rate Plan.

The Proposal strikes a reasonable compromise of these matters by (i) reflecting the Company's forecasted expenditures to achieve agreed-upon projected numbers of OTG conversion customers, subject to an enhancement to the gas net plant reconciliation mechanism to address circumstances where actual conversions and/or actual costs incurred are materially less than forecasted (discussed *infra*); and (ii) the Company's commitment to take various steps to further enhance its efforts to facilitate OTG conversions for interested applicants.

The Company's OTG program currently supports and facilitates gas expansion, and complements NYC's Clean Heat program to reduce emissions by phasing out, through regulation, the

²⁰ The proposed net plant reconciliation mechanisms discussed below are designed to defer for the benefit of customers rate impacts of any reduction in storm hardening expenditures that may result from the Commission's order.

use of heavy heating oil in NYC. For example, to address increasing numbers of OTG conversion requests, the Company created an organization (“Conversion Group”) to handle conversions from the use of Nos. 4 and 6 fuel oil to natural gas for heating within the New York City portion of its service territory. The Company also initiated an “Area Growth Program,” which reduces the costs for applicants to connect within designated zones and expedites their conversions to natural gas for heat. The Commission approved this tariff, with modifications, on November 14, 2013.²¹

The Company has also made extensive efforts to encourage the expansion of natural gas for heating through the use of multiple media formats and has met, through its Conversion Group, with hundreds of potential conversion applicants and members of the contracting, plumbing and engineering industry who support and facilitate the customer-side of such conversions. In the Proposal, the Company has committed to additional activities to foster and further facilitate gas expansion, such as enabling applicants to track their conversion timelines; filing reports with the Secretary on the progress of gas expansion in NYC and any associated delays; further increasing the availability of information and transparency to potential conversion applicants; making available maps of zones being rolled out under the Area Growth Program; providing applicants with additional time to make conversion decisions; and providing more detail on the estimates of customer contributions to the costs to connect to the Company’s gas distribution system.

c) Leak-Prone Gas Pipe Replacement in Flood Prone Zones

The Proposal addresses a program to replace minimum amounts of leak-prone gas pipe in flood prone zones in each of RY1, RY2 and RY3. This program is primarily focused on improving system resiliency, as distinguished from the Company’s safety-related leak-prone pipe replacement program, discussed separately in this Statement.

The Company’s initial filing proposed replacing approximately two miles of leak-prone pipe in each of RY2 and RY3. Other parties sought to implement replacements for all three Rate Years

²¹ Case 13-G-0156, *Order Approving Tariff Amendment With Modifications*.

and to increase significantly the amounts of proposed replacements. Still others questioned whether such a program is needed at all.

The Proposal reflects a fair balancing of the different positions expressed by the parties. The Proposal provides for the Company to replace two miles of leak-prone pipe in flood prone zones in RY1, increasing to three miles in RY2, and four miles in RY3. This phase-in approach enables the Company to address resiliency issues on its gas distribution system in flood prone areas in each year of the Gas Rate Plan, while mitigating the rate impact that would result from more extensive pipe removal.

d) Potential Use of Distributed Generation in Mitigation of Capital Expenditures for Brooklyn Networks Load Growth

The need for additional capital investments for Brooklyn networks was identified upon the Company's analysis of summer 2013 peak loading. The Proposal provides for the Company to mitigate such investments to the extent practicable by deploying advanced technologies to facilitate utilization of utility and customer-side resources including distributed generation ("DG"). While time is of the essence to address load growth in these networks, the Company agreed to meet with interested Signatory Parties before implementation to review the potential alternatives to the proposed investments and provide the opportunity for feedback.

Beyond the potential to deploy distributed resources to address these Brooklyn networks, parties made various proposals to facilitate expansion of DG. To accommodate parties' interests in expanded DG, the Proposal addresses various other initiatives that complement the Company's current efforts to support DG, including incorporation of DG in the Company's planning process. For example, the Proposal provides for the Company to file with the Commission a microgrid implementation plan within six months of issuance of the report on microgrids expected in spring 2014 by the New York State Energy Research and Development Authority ("NYSERDA"). In connection therewith, the Company will convene a collaborative to consider whether the single

customer limitation in the “ahead-of-the-meter” campus Standby Rate should be eliminated. To facilitate DG installations where potential fault current exceeding the fault duty capability of the Company’s circuit breakers would otherwise preclude DG installations, the Proposal also provides for the Company (rather than the DG customer) to fund the cost to purchase and install fault current mitigation technology up to \$3 million annually.²² As discussed *infra*, the Proposal also positively addresses parties' interests in terms and conditions relating to the Company's standby service and interconnection processes.

e) AMR/AMI Outage Management Pilot

The Proposal provides for the Company to conduct a two-phase pilot program to test the use of existing advanced metering technologies to improve the Company’s outage management capabilities. The pilot program is in the public interest because of its potential to assist in more timely identification of customer outages and to improve the Company’s overall outage response and efficiency. The Company will evaluate the first phase of the pilot program, which is in Westchester County, and determine whether to move forward with the second phase, which would consist of expanded and longer duration testing in Westchester County and in NYC.

2. Net Plant Reconciliation

A major component of the Proposal is a downward-only net plant reconciliation mechanism for each of the electric, gas and steam Rate Plans intended to encourage the Company not to over- or under-spend on plant investment. The mechanism establishes net plant targets and requires the Company to refund to customers the carrying charges included in the revenue requirements associated with net plant investment that is not made (*i.e.*, the delta between the target and a lower actual net plant level). In addition, the Company will absorb, during the terms of the Rate Plans, the carrying costs associated with capital expenditures that result in net plant levels that exceed the stated

²² The Company’s incremental costs will be deferred for recovery from customers.

targets. The net plant reconciliation mechanism is accompanied by substantial and detailed capital expenditure reporting requirements.²³

The overall framework and scope of these downward-only net plant reconciliations are generally in line with those under the existing electric, gas and steam rate plans with respect to the separate categories of plant that are reconciled individually (*i.e.*, in “silos”). The negotiated structure of the mechanisms is more “siloeed” than proposed by the Company and less than that proposed by Staff.²⁴ The Proposal does not provide for upward-reconciliation for the Company except in limited circumstances, for gas only, for interference expenditures related to major public projects, similar to a provision of the current gas rate plan.

In addition, as noted above, the gas net plant reconciliation mechanism is designed to address issues related to the projected cost of achieving targeted OTG conversions and the actual number of OTG conversions achieved relative to the targets. The Proposal addresses these concerns through a separately identified OTG conversion net plant target within the overall Delivery net plant target that can result in a downward reconciliation independent of overall actual net plant for Delivery in relation to the Delivery net plant target.

Although the Company believes that the net plant reconciliation mechanism establishes a reasonable compromise as to net plant reconciliation in the context of a comprehensive settlement of issues in this case, the Company notes that a silo-based, downward-only reconciliation mechanism effectively places restrictions on the Company’s managerial prerogatives for allocating capital in the manner best suited to accomplish its obligation to provide safe and adequate service, and potentially provides a disincentive to reallocate capital where the result may be the Company owing customers a

²³ The reporting requirements are set forth in Appendix 23 to the Proposal.

²⁴ The net plant reconciliation mechanisms include a new, separate plant category or “silo” for storm hardening capital spending. To ameliorate the potentially restrictive effect of this additional, new net plant reconciliation measurement category, the Proposal recognizes that there may not be a bright line distinction between an electric capital project for storm hardening purposes and one for general reliability purposes. The Proposal does so by establishing a framework for assessing storm hardening and T&D reliability net plant on a basis that allows for a small under run in one category to be acceptable if there is no under run for the two categories combined.

refund of carrying charges related to one category of plant while also absorbing carrying costs for expenditures above the net plant target in another category. A siloed and downward-only net plant reconciliation mechanism also places the Company at financial risk in the face of uncertainties regarding legislative and regulatory actions and their effect on the Company's infrastructure (subject to relief that may be available if such action triggers the new laws provision (discussed *infra*)), which the Company accepts for purposes of this Proposal.

D. Reconciliations

The Commission routinely adopts reconciliation mechanisms for costs and expenses that are difficult to project with any reasonable degree of accuracy in order to protect both customers and investors from the risks that projections upon which rates are based may vary materially from actual costs incurred by the Company.

The Proposal provides for the reconciliation of certain of the Company's actual costs or revenues to the amount reflected in the revenue requirement. For some items, the Proposal provides for a full true-up, protecting customers and the Company equally in the event of variation. For others, the sharing of risk is asymmetrical in favor of customer interests. With few exceptions, the reconciliation mechanisms are generally the same as those in place under the current electric, gas and steam rate plans, and/or pursuant to longstanding Commission policy or practice and were not matters of significant, if any, dispute in litigation positions.²⁵ As such, only a few of the reconciliation mechanisms identified in the Proposal are specifically addressed here. The reconciliation mechanisms are reasonable and should be adopted.²⁶

²⁵ The Proposal specifically identifies those existing reconciliation mechanisms that the Signatory Parties have agreed are no longer necessary or appropriate under the Rate Plans. In addition, to avoid the inadvertent discontinuance of a reconciliation or deferral accounting mechanism on the basis that it is not specified for continuation under the Proposal, the Proposal reasonably provides that all existing reconciliations and/or deferral accounting mechanisms will continue except for those expressly identified in the Proposal for termination.

²⁶ In addition to the accounting matters associated with reconciliation mechanisms, the Company notes that the Proposal recommends that the Commission authorize certain accounting by the Company to effectuate the manner in which the Proposal resolves various issues.

1. Property Taxes

The Proposal continues the partial reconciliation of the Company's property tax expense during the terms of the Rate Plans. The Proposal provides for variations of actual property taxes from the levels provided for in rates to be shared between customers and the Company on a 90/10 basis with the Company's 10% share capped at an amount equal to ten (10) basis points on common equity for each Rate Year. The Company will defer for recovery from or credit to customers, the full amount of any variation above or below the level at which the cap takes effect. This negotiated partial sharing mechanism compares to the Company's litigation position of full reconciliation even absent a multi-year rate plan and sharing under the Company's current rate plans on an 80/20 basis. In addition, the risk of a partial sharing of variations in property taxes was accepted by the Company notwithstanding the evidence in these proceedings, and in prior proceedings, both that the Company undertakes aggressive efforts to minimize them to the extent practicable and that these efforts have resulted in substantial savings for customers.

2. Municipal Infrastructure Support Expense (Interference)

The Proposal continues the asymmetrical deferral mechanism that will apply in the event the Company's O&M expense for Municipal Infrastructure Support varies from the amount reflected in the revenue requirements under the Electric, Gas and Steam Rate Plans. The asymmetry of the mechanism is that it provides full protection to customers if the actual expense is less than the rate allowance, while limiting the amount of and circumstances in which the Company may recover expense in excess of the rate allowance. That is, if the expense exceeds the level provided in rates for any Rate Year, only 80 % of the variation above the target within a band of 30% will be deferred for recovery from customers. Expenditures above the target plus 30% will not be recoverable from customers except in certain circumstances related to major public works projects, as specified in the Proposal, in which case only 80% of the variation above 30% will be recoverable.

This Municipal Infrastructure Support reconciliation mechanism is another example of provisions of the Proposal that the Company ultimately deemed acceptable in the context of all of the other provisions of the Proposal.

3. Pensions and Other Post-Employment Benefits (“OPEBs”)

The Proposal provides for the Company’s costs related to pensions and OPEBs to continue to be subject to reconciliation, but no longer fully so, under the Commission’s policy regarding accounting and ratemaking for these elements of cost as established in Case 91-M-0890. Under the Proposal, for the first time after many years and rate plans, the pension cost related to the Company’s SRIP will not be fully recognized in rates and the pension/OPEB reconciliation mechanism. The Company demonstrated that the SRIP is a normal and customary component of pension benefits and should continue to be reflected in rates under the Commission’s policy regarding accounting and ratemaking for pension costs. As such, the Company’s concession to exclude a material portion of these costs was a major one to the benefit of customers that the Company believes would be wholly unwarranted but for the totality of the settlement as reflected in the Proposal.

4. Environmental Remediation Costs

The Proposal reasonably calls for SIR costs to continue to be subject to full reconciliation consistent with the Commission’s standard accounting and ratemaking approach and the SIR Order. No party raised an opposing position. The Proposal also recommends that the amortization period for SIR costs be changed from ten (10) to five (5) years. This change recognizes that the current ten-year amortization is the longest recovery period of utilities in the State and that shortening the amortization period to five years would have minimal near-term bill impacts while saving customers carrying costs over the long term. The change in amortization period is reasonable and should be adopted.

5. Long Term Debt Cost Rate

The Proposal calls for the continuation of the reconciliation of long term debt costs but in a more limited manner than provided for under the existing electric, gas and steam rate plans. Rather than continue the reconciliation of the Company's actual weighted average cost of all of its long term debt used to determine revenue requirements in these proceedings, the Proposal limits the reconciliation mechanism to only the portion of that cost related to variable rate debt (*i.e.*, the Company's tax-exempt portfolio). This provision of the Proposal effectively adopts Staff's litigation position on the reconciliation of long term debt costs. The Company's position was that the reconciliation continue to apply to the full weighted average cost of long term debt. Since the Company continues to believe that due to the Federal Reserve intervention to hold interest rates artificially low, it is more likely that interest rates will continue to increase over the course of the multi-year rate plans, and the Company believes that this change to the current reconciliation mechanism ultimately benefits customers, notwithstanding that rates do reflect agreed-upon forecasted interest rates.

6. Major Storm Costs

Given the unpredictability of costs related to major storms affecting the Company's electric system, the Proposal continues reserve accounting for such costs, but with certain changes that inure to the benefit of customers. As explained below, the Proposal continues provisions that provide the Company the opportunity to recover its prudently incurred costs in responding to major storms, with some modifications designed to mitigate the impact on customers, through the major storm reserve and provide the Company an opportunity to recover costs for extraordinary events that entail extended periods to restore the system to normal through a petition to the Commission.

The Proposal reflects an increased rate allowance based on the average of such costs in recent years consistent with past practice. At the same time, that allowance excludes the impact of Superstorm Sandy, which is generally regarded as an extraordinary event that is less likely to occur

during the course of a two-year rate plan; the inclusion of such costs in the average would have materially increased rates. The Proposal also reasonably provides for commencing recovery of previously incurred storm costs, including those for Superstorm Sandy, subject to refund since such costs remain subject to Staff review. Similarly, with regard to previously-incurred Superstorm Sandy costs related to the Company's steam system, the Proposal provides for recovery of such costs subject to refund pending the Commission's determination on the Company's petition to defer such costs for recovery in Case 13-S-0195.

The Company's recovery of future major storm costs will be subject to a 2% deductible, and includes a limitation on the period for which costs may be charged to the storm reserve (*i.e.*, up to thirty (30) days following the date on which the Company is able to serve all customers). Recovery of costs incurred during an extended period of restoration (as was the case for Superstorm Sandy) would now be the subject of a petition to the Commission.

The changes to the major storm reserve are another example of provisions of the Proposal that were difficult for the Company to accept. For example, the Company disagrees with the premise of a storm deductible (*i.e.*, that costs incurred by the Company to restore the system to normal will necessarily include work that the Company otherwise planned to perform during the year). On the other hand, the Proposal does recognize that in the post-Superstorm Sandy era, utilities, like the Company, will take steps to prepare for potential major storms that significantly exceed past preparatory actions, and that the Company may rightfully charge the major storm reserve for contractors and/or mutual assistance (up to \$3.0 million per year under the Proposal) even if the anticipated weather event does not ultimately constitute a major storm.

7. Non-Officer Management Variable Pay

The revenue requirements under the Proposal reflect the projected expense for the Company's Non-Officer Management Variable Pay Plan as a result of a demonstration by the Company that its compensation and benefit plans are comparable to its peers, consistent with recent

standards adopted by the Commission for the recovery of such costs. The rate allowances are accompanied by a downward-only reconciliation mechanism to the benefit of customers under which actual expenses less than the rate allowances will be deferred for future credit to customers and actual expenses above the rate allowances will be absorbed by the Company.

E. Additional Rate Provisions

1. Depreciation Rates and Reserves

Depreciation matters were the subject of significant differences of opinion in the litigation phase of the instant proceedings with various parties presenting different approaches in the determination of depreciation. Party positions as to the rate allowance for depreciation and the extent of variations between the book depreciation reserve and the theoretical reserve varied from those presented by the Company by hundreds of millions of dollars. The principal reason for that is parties proposed to fundamentally change the approaches to the subject accepted by the Commission and utility regulators across the United States for decades. Although the Proposal sides with no party's full position as to average service lives, net salvage factors, life tables or depreciation reserve variations or the preferred theoretical basis or method for determining them, the depreciation factors under the Proposal (Appendix 11) are largely skewed towards Staff's position. That includes termination of two amortizations of an electric book depreciation reserve deficiency that the Commission authorized in recent rate cases due to the Commission's recognition of the need to recover a large and persistent deficiency. Acceptance of such dramatic changes on a subject that experts caution should be subject to gradual change was difficult for the Company to accept but it did so in the context of the Proposal in its totality and to facilitate achieving revenue requirements that were conducive to being levelized at zero over the terms of the Rate Plans.

2. Property Tax Refunds and Credits

The Proposal reasonably continues the property tax refund and credits sharing mechanism included in the existing electric, gas and steam rate plans. The Company proposed continuation of the mechanism in its filing and no party opposed.

The Proposal reflects the disposition of the property tax refund that the Company received from the City of New York and that is the subject of a pending Company petition in Case 13-M-0376. The Proposal allocates the refund among electric and steam customers and the Company in the manner reflected in the petition and in a manner consistent with existing rate plans. The Proposal notes that Staff has reviewed the Company's petition in Case 13-M-0376 and has conducted discovery on it, which supports the resolution of the petition in the manner reflected in the Proposal. For these reasons, the Commission should resolve Case 13-M-0376 consistent with the Proposal.

3. Spent Nuclear Fuel Litigation Costs

At issue in the litigation phase of these proceedings was the Company's proposal, opposed by Staff, to recover certain previously-incurred outside legal fees, plus interest, related to a suit brought against the United States Department of Energy respecting its obligation to dispose of spent nuclear fuel at the Indian Point nuclear generating station. Disagreement over the intent of the rate plan in Case 09-E-0428 respecting the subject was resolved by a negotiated result squarely between the Company's and Staff's positions – recovery in electric rates of one-half of the amount. That reasonable result should be adopted.

4. Sale of John Street Property

The litigation phase of these proceedings included a dispute between the Company and Staff regarding the proper allocation of the gain realized by the Company on the sale of certain property on John Street in Brooklyn. The Proposal resolves the dispute by a negotiated result squarely between

the Company's and Staff's positions with the disputed amount being allocated one-half to electric customers and one-half to the Company. This reasonable result should be adopted.²⁷

5. Gas Additions for 59th Street and 74th Street Steam Generating Stations

At issue in these proceedings was the time at which the Company is entitled to begin recovering the carrying costs associated with the addition of gas-firing capability to its 59th Street and 74th Street Steam Generating stations which were placed in service before RY1. The Company's position was that recovery should begin upon the in-service date, when customers began enjoying the reduced fuel costs associated with burning lower-priced natural gas in lieu of fuel oil. Staff took the position that recovery should not begin until the start of RY1. The dispute was based on different readings of the Company's existing steam rate plan and the Commission's February 22, 2012 order in Case 09-S-0794. The Proposal reflects a compromise of these two conflicting positions, reflecting partial recovery of carrying charges applicable to commencement of service from these facilities in 2013.

6. Productivity

The Proposal reflects the "standard" one percent productivity imputation in electric, gas and steam revenue requirements.²⁸ In litigation, Staff proposed and the Company opposed a further productivity imputation that Staff asserted would result from the Company's implementation of the Finance and Supply Chain Enterprise Resource Project ("Project One"). The Company's explained that it was too soon after the implementation of Project One to expect them to be realized and that Staff's proposed savings amounts were overstated. The Proposal resolves the dispute by a negotiated

²⁷ Appendix 12 of the Proposal sets forth the accounting to effectuate the disposition of the gain on the sale as resolved in the Proposal. The Commission should approve such accounting and, consistent with the Proposal's recommendation, deem the resolution of the matter consistent with the Proposal to resolve all matters pertaining to Case 13-M-0040, *Petition of Consolidated Edison Company of New York, Inc. for the Approval of Accounting Treatment of the Proceeds of the Proposed Sale of Property*.

²⁸ For purposes of settlement, the Company did accede to a Staff position that the one percent productivity imputation for RY1 be calculated as of the end of the test year, which, in the Company's view, effectively builds productivity in excess of one percent into the RY1 revenue requirement.

result squarely between the Company's and Staff's positions with one-half of Staff's proposed productivity savings being reflected in electric, gas and steam revenue requirements.

7. Rate Adjustment Clause

In the litigation phase of these proceedings, the Company proposed and Staff opposed discontinuing Rate Adjustment Clause ("RAC") under which certain amounts of electric, gas and steam revenues are collected subject to refund in accordance with Case 09-M-0014. Although the Company believes that the accumulation of additional revenues subject to refund is not necessary and has concerns regarding the investment communities' view of continuing the RAC, the Company, in the spirit of compromise in the context of a settlement, agreed to adopt Staff's position and the Proposal notes that the RAC will continue. The Proposal does not reach to the resolution of matters being addressed in pending Case 09-M-0114.

F. Revenue Allocation/Rate Design

The Company filed Embedded Cost of Service ("ECOS") studies for electric, gas and steam service in its initial filing which indicated the need for certain realignments in revenues among classes. Accordingly, while the Proposal provides for no revenue increase on an overall basis for RYs 1 and 2 for electric service, and for RYs 1, 2 and 3 for gas and steam service, rates (bills) for individual classes and customer-specific bills may go up or down.

1. Electric

The electric revenue allocation is based on the Company's electric ECOS study and on various concessions made regarding the application of the results of this study for the purposes of reaching a settlement, relating to the allocation of revenues to the NYPA class. Specifically, in each of RYs 1 and 2, the NYPA class will be assigned an additional \$9 million before adjusting for any rate changes, and the current relative relationship between high tension and low tension rates will be maintained. As recognized by the Proposal, the NYPA revenue allocation is not the result of the use of any particular methodology or of a particular ECOS study tolerance band. In order to further

accommodate disparate views among the parties on cost allocation issues, the Proposal also reflects the agreement that the proposed base electric delivery rates in the Company's next electric rate filing will be premised upon an ECOS study using calendar year data that is no more than two years prior to the calendar year in which the filing is made. Also, in the spirit of compromise, the Company agreed to provide parties with more explanation of its ECOS study methodology in its next rate filing, discuss with interested parties whether any additional data will further inform the Company's next electric ECOS study, re-evaluate its cost of service methodologies related to how the Company classifies and allocates customer costs, and conduct, for interested parties, a walk-through of the ECOS study and rate design methodologies.

a) VTOU Rates

The Proposal establishes a new residential voluntary time of use rate with an off-peak period of midnight to 8:00 a.m. The Company initially proposed a six-hour off-peak period of 1:00 am to 7:00 am and other parties suggested much longer off-peak periods, up to ten hours. The eight-hour off-peak period represents a reasonable compromise among Signatory Parties and non-signatory parties. As proposed by Staff, customers that register as plug-in electric vehicle ("PEV") owners will receive a price guarantee that they will not pay more over the course of the one-year period than they would have paid under conventional SC 1 Rates. Accordingly, the new rate allows residential customers to take advantage of a time of use rate structure without risk for an initial period. The Company also committed to (i) propose a stand-alone rate specifically targeted towards residential PEV customers in its next rate case, which was requested by several parties, (ii) expand an existing pilot that is testing PEV metering technologies to up to fifty participants, and (iii) propose an additional pilot related to time-sensitive rate structures, subject to Commission action that continues in Working Group 2 in the Storm Hardening and Resiliency Collaborative. These commitments further Commission policies and if appropriately structured and implemented, should enhance the Company's existing rate structures related to time variant pricing and PEV-specific pricing.

b) Business Incentive Rate

The Company's Business Incentive Rate ("BIR") provides discounted delivery rates to businesses in order to spur economic development in the Company's service area. The Comprehensive Package Program of the BIR permits the City of New York and the County of Westchester to allocate a total of 245 MW of BIR service to businesses that meet specified criteria designed to produce economic benefits. The Proposal provides for the continuation of the BIR and makes three changes to enhance the benefits of the Comprehensive Package Program.

First, the availability of BIR to help attract additional biomedical research facilities into the Company's service area will be expanded from its existing level of 40 MW to 60 MW, all of which will come from the City's existing unsubscribed Comprehensive Package allocation. If the need develops during the Electric Rate Plan, the City may choose to contribute an additional 10 MW.

Second, the BIR will be used to reinforce the benefits of the Recharge New York ("RNY") Program as a tool for economic development. RNY provides lower cost NYPA-generated hydro power to entities that commit to capital investments and the creation or retention of jobs. The Proposal permits the City and Westchester County to allocate to RNY recipients BIR power from the Comprehensive Package Program.

Third, the Proposal permits the City to allocate a total of 5 MW of BIR service from the Comprehensive Package Program to help revitalize small businesses and non-profit organizations employing fewer than ten employees in designated areas affected by Superstorm Sandy. Because the program is directed to small organizations, SC2 customers, not normally eligible for the BIR, will be eligible for this program.²⁹

The Company views business development and economic growth as a key to achieving the State's goal of increased prosperity for New York. Business development will spur job growth and

²⁹ The Company will have until July 1, 2014 to modify its billing system to accommodate SC2 NYC Superstorm Sandy BIR customers.

employment leading to increased income for New Yorkers. With a view to increased prosperity, the State needs as many tools to address and encourage economic development as it can reasonably develop, and providing additional opportunities for certain customers to receive the BIR is in line with these objectives.

c) Mandatory Hourly Pricing

The Proposal includes several provisions related to the Company's Mandatory Hourly Pricing ("MHP") program. First, in response to Staff's recommendation, the Company will modify its method of billing MHP customers for capacity, from billing based on monthly peak demands to billing based on customers' installed capacity tags. Second, the Company will increase its MHP customer training and education in a variety of ways to assist these customers in better managing their energy usage and cost. Finally, to address Staff's proposal that the Company begin an expansion of the MHP program immediately following the completion of the reactive power meter installations, within twelve months following completion of reactive power meter installation the Company will file a proposal evaluating its MHP program and offering proposals for an expansion of its program. This result balances Staff's interest in expanding the program and the Company's concerns related to metering communication difficulties.

d) Standby Rates for Distributed Generation

The Proposal resolves various issues raised by parties regarding the Company's standby rates and terms of service as follows. The current O&M charge in Standby Rates will remain unchanged during the Electric Rate Plan. Setting the Contract Demand will remain unchanged except that customers installing DG "behind-the-meter" in new construction or upgraded premises after March 1, 2014, may set the Contract Demand, without penalty for exceedance, subject to Company authority to approve or modify the Contract Demand to meet the customer's maximum potential demand. The Company will include a reference to its new DG Guide for 2-20 MW in its electric, gas, and steam

tariffs. Subject to thirty days' notice on the Company's DG website, the Company may implement changes to the DG Guide.

2. Gas

In response to requests by parties for a better understanding of the gas ECOS study, the Company agreed that for its next rate filing it will provide a more detailed explanation of supporting ECOS and rate design workpaper documentation, and conduct, for interested parties, a walk-through of the ECOS study and rate design methodologies. In addition, the Company committed in this Proposal to re-evaluate its cost of service methodologies related to how the Company classifies and allocates customer costs for its next rate filing.

a) Firm Service

Although one or more parties raised concerns over certain aspects of the Company's firm gas rate design methodology during the litigated phase of these proceedings, for the purposes of this Proposal, the Signatory Parties concluded that, other than for contested firm customer charges which will remain unchanged, the Company's rate design methodology and revenue allocation should be implemented as proposed by the Company. The Proposal also reflects the Company's agreement to allow 100 feet of main and service line extensions for each firm gas applicant on a common main (instead of "up to" 100 feet) in situations where multiple applicants agree to connect at the same time.

b) Interruptible Service

In its initial filing, the Company proposed several changes in its interruptible rates and terms of service that were designed to enhance benefits to firm customers, maintain system reliability and simplify rates. For SC 12 Rate 1 customers, the Company proposed a blocked rate design with a monthly minimum charge. The Company also proposed a Minimum Volume Eligibility Threshold of 100,000 therms per year and an annual reconciliation based on delivery components only. For SC 12 Rate 2 customers, the Company proposed increasing rates to 11.5 cents per therm and eliminating

fixed multi-year rate contracts. Various parties opposed the Company's proposals for changes to interruptible rates, and made individual proposals designed to significantly enhance interruptible rates and terms of service, which in the Company's view, would be at the expense and to the potential detriment of the Company's firm gas customers.

The Proposal represents a significant compromise on the Company's part. Neither the Company's recommended Minimum Volume Eligibility Threshold nor the annual reconciliation based only on delivery components were incorporated in the Proposal. Instead, the Proposal includes a monthly minimum charge for Rate 1 customers that is lower than the minimum charge proposed by the Company and that is phased in over the three-year Rate Plan. For Rate 2, the Proposal increases rates from 7.0 and 7.5 cents for multi-year contracts to 8.0 cents per therm and allows for the continued availability of multi-year contracts. Moreover, the Proposal allows Rate 2 customers to offset the minimum burn guaranteed revenue against the costs of interconnection facilities.

Accordingly, while the Proposal recommends certain limited changes to interruptible rates and terms of service, the Proposal recognizes parties' interests in further changes by providing for an Gas Interruptible Study to be performed by the Company, as later discussed in this Statement.

c) Transportation Balancing for Power Generators

The Proposal provides for changes to the Company's gas balancing provisions applicable to power generators. The Company's current balancing services are based on the Rate Order adopted by the Commission in Case 03-G-1671 (September 27, 2004) and the Company did not propose any changes in these proceedings. However, Staff proposed changes intended to align the Company's gas balancing provisions with other gas utilities in the downstate area. The Company explained why it believed Staff's proposal to be adverse to the interests of the Company's firm gas customers. The Proposal recommends a modified version of the changes proposed by Staff that mitigates the adverse impacts that the Company believed to be inherent in Staff's original proposal.

3. Steam

Since all classes were within the ECOS study tolerance band of $\pm 10\%$, there was no need for revenue realignment. The Company did agree to provide a more detailed explanation of supporting ECOS and rate design workpaper documentation in the next steam rate case.

G. Performance Metrics

The Proposal continues electric, gas, steam and customer service performance metrics, some with modifications that increase the target level of performance, and in some cases, with the addition of new metrics. While the Company accepted continuation of performance metrics as a standard element of Commission adopted rate plans, there was disagreement among the parties as to the extent to which, if any, existing performance mechanisms should be changed and whether new metrics should be added.

The Proposal reflects a compromise among the Signatory Parties on this matter.³⁰ As discussed below, the new metrics and associated potential negative revenue adjustments were, in particular, a very difficult element of the Proposal for the Company to accept but were ultimately viewed by the Company as acceptable in the context of this comprehensive settlement. As indicated by the provision of the Proposal that leaves open the opportunity for positive incentives for superior gas safety performance,³¹ the Company believes that on a going-forward basis, the Commission will adopt policies that focus on positive incentive rather than penalties as a more effective mechanism to incent superior performance.

1. Electric

The Proposal makes several changes to the current Electric Reliability Performance Mechanism ("RPM") (Appendix 16). For example, two network performance targets – outages per

³⁰ The Company has explained that continually tightening standards to more closely match historical performance can be a disincentive to improve, is unnecessary given the Company's demonstrated performance, and carries the potential for higher costs to customers to maintain such levels of performance.

³¹ See Proposal, Appendix 17, p. 8.

1,000 customers and network outage duration – have been reset (i) to reflect four years actual performance from 2008 through 2011 (2012 was not used due to Superstorm Sandy impacts) and (ii) to remove from the performance data used to establish the targets two types of major storm outages: a) secondary underground network interruptions that occur in an operating area during winter snow/ice events that meet the 16 NYCRR Part 97 “major storm” definition (10%/24 hour rule) and b) interruptions during “major storms” (same definition) to customers in secondary network areas who are supplied via overhead lines connected to an underground network system. The “Exclusions” section was revised to exclude these types of major outages from reportable performance data. The Company and Staff agreed that “major storm” impacts on the Company’s network performance should not be measured under the RPM. The network feeder Summer Open Automatics target was reset to reflect five years actual performance from 2008 through 2012 (this metric measures summer period performance and summer 2012 data was not affected by Superstorm Sandy). The Over-Duty Circuit Breaker Metric was modified to require replacement of at least 50 circuit breakers per year and at least 120 circuit breakers over a two-year cycle (currently the metric requires replacement of 60 per year). The modification provides the Company more flexibility in replacing breakers while retaining the current target on a cumulative basis and comparable negative revenue adjustments. As discussed, *supra*, the Company will fund the cost to purchase and install fault current mitigation technology up to \$3 million annually to facilitate DG installations in networks where circuits breakers are over-dutied.

The RPM includes a new Intrusion Detection System (“IDS”) Metric to measure completion of IDS installation at 12 bulk power substations. A \$2 million revenue adjustment will apply for each substation not completed by April 30, 2015 and would continue in subsequent years until the substation is completed. Although the Company met its \$11.8 million expenditure commitment for IDS installations under the current electric rate plan, the Company did not achieve Staff’s expectations regarding bulk power substation security. The proposed Rate Plan better specifies

Staff's expectations in this area and establishes material consequences if the Company does not fully achieve these expectations. Although the Company strongly disagreed with Staff's rationale for this performance metric, the Company agreed to the metric with great reluctance only as part of the overall give and take needed to conclude agreement on the Proposal.

2. Gas

Despite the Company having met all performance targets under its last gas rate plan, Staff proposed tightening nearly all of the existing performance targets,³² as well as adding two new safety metrics. The Proposal (at Appendix 17) sets out terms and conditions for safety performance metrics related to leak management, emergency response (gas leak or odor calls), prevention of damage to Company facilities and a material increase for replacement of leak-prone gas mains.³³ They are similar to the safety performance metrics established in the Company's last gas rate case, but ratchets up some of the targets to be more in line with and/or to exceed more recent performance. While the Company disagrees with these ratchets for the reasons explained above, the Company accepted the modifications proposed by Staff in order to resolve the issues in these proceedings, and because the revenue requirements were adjusted to reflect increased costs the Company would incur to achieve certain of these higher targets.³⁴

The Proposal also adopts a new Gas Regulations Performance metric, which Staff proposed as being consistent with similar measures incorporated in other recent utility gas rate plans.

Notwithstanding, this measure was one of the most difficult for the Company to accept. The critical factor in resolving the materially different Company and Staff positions regarding this metric

³² Exceptions are the 30-minute and 45-minute Emergency Response metrics.

³³ The Proposal reflects Staff's recommendation to increase annual levels of leak-prone pipe removal from 50 miles under the last gas rate plan to 70 miles by RY3, a 40% increase. As discussed *supra*, the Proposal separately addresses parties' proposals to replace more leak-prone gas pipe in flood zones.

³⁴ Although the more stringent standards proposed by Staff were accepted for purposes of the Proposal, the Proposal does phase in some of those more stringent standards over the term of the Gas Rate Plan, thereby providing some opportunity for the Company to adjust its operations. Consistent with prior rate plans, the Proposal also includes reasonable provisions regarding the circumstances in which the Company may seek to be excused for not attaining a safety performance target along with reporting requirements regarding Company's performance compared to the gas safety performance targets.

was the establishment of performance threshold levels that recognize that negative revenue adjustments should not be applied unless and until the Company's performance exceeds certain target levels, and that the target levels established for this new mechanism be phased in over the term of the Gas Rate Plan. As indicated in the Proposal, establishing a performance metric relative to violations of the identified gas regulations is not an admission by the Company that violations of one or more of these administrative rules creates any safety or other risks to customers or the public. Moreover, under the Proposal, the Company is afforded opportunities to either cure a violation or demonstrate that the violation should not be subject to a negative rate adjustment under this metric. Annual thresholds for negative revenue adjustments were established based upon a five-year average of Staff's field and record audit results and assume future audits consistent with those performed over the same five-year period.

The Proposal adopts Staff's recommendations regarding the magnitude of potential negative financial consequences to the Company should the Company not achieve performance targets. Under the current gas rate plan, the Company's exposure for failing to meet gas safety performance metrics was 35 basis points. Under the Proposal, the Company's exposure is increased to 150 basis points by RY3, a more than four-fold increase. Staff again proposed this significantly higher level of risk exposure in order to conform the Company's negative rate adjustments to that of other utilities. Even though the Company's excellent gas safety performance provides no basis for such a substantial increase in the Company's risk exposure – the Company has historically met or surpassed all gas safety performance targets – the Company agreed to the increase to accommodate Staff's interest in aligning the relative magnitude of negative rate adjustments for the Company with those of other utilities in order to reach a settlement in these cases.

3. Steam

The Proposal provides for continuation of steam safety performance metrics relating to emergency response to steam/leak vapor calls and steam leak backlog, subject to two modifications that are more modest than those proposed for electric and gas. With respect to emergency response to steam leak/vapor calls, the Proposal provides for the Company to respond to 88% of all steam leak/vapor calls with 45 minutes with a phase-in target level, an increase from the existing level of 85%, to avoid a three basis point negative revenue adjustment. The Proposal also provides for the Company to respond to 93% of all steam leak/vapor calls within 60 minutes with a phase-in target level, an increase from the existing level of 90%, again to avoid a three basis point rate adjustment. With respect to the Steam Leak Backlog metric, the Proposal simplifies the metric, using a year-end average target of 22 leaks instead of basing performance on two separate 12-month average targets for June and December. The Company does note that the need to respond to a greater percentage of the steam leak/vapor calls in the established time frames will require the Company to reassess its resources to perform this task.

4. Customer Service

The Proposal includes performance mechanisms that continue to measure the Company's performance with respect to customer service. The Proposal maintains the current customer satisfaction performance mechanisms for Gas and Steam, but makes more stringent the Call Answer Rate and the Commission Complaint metrics of the electric customer service performance mechanism.

The Company testified that the existing Call Answer Rate metric fairly and appropriately measures the Company's performance in that area, and that the Company has expended significant effort in reaching the current targets. Nevertheless, to address proposals by Staff and other parties for more stringent targets, the Proposal provides for adjustments to both mechanisms that are

designed to generally conform customer service performance mechanisms for all utilities and, at least with respect to the Commission Complaint target, reflect Staff's view of the Company's ability to achieve these higher targets based on recent past performance. The Company's acceptance of these adjustments was premised, in part, on an adjustment to the revenue requirements that recognizes that additional Company resources are required to achieve the higher Call Answer Rate target.

H. Electric and Gas Low Income Programs

The size and availability of discounts to low income customers is routinely an area of contention in Company rate proceedings, since higher low income discounts means higher rates to customers that do not participate in the low income programs. The Proposal provides for the continuation of the Company's current gas and electric Low Income Programs, with several modifications and additions described below that provide significantly increased discounts to low income customers. The Proposal maintains, among other program provisions, the Company's reconnection fee waiver programs, and low income program quarterly reporting requirements.

With respect to the gas program, both Staff and the Company proposed generally to maintain the funding at its current level. Other parties took different positions. For example, the Public Utility Law Project ("PULP") and UIU proposed changes that would significantly increase the cost of the programs. In addition, Staff proposed to eliminate the \$1.50 SC 1 non-heating discount (and use those dollars instead to increase the discount to SC 3 customers), while UIU proposed to increase the SC 1 discount to \$3.00.

The Proposal resolves these differing positions as follows: the Company will continue to provide eligible SC 1 non-heating customers with a \$1.50 discount on their otherwise applicable minimum charge; eligible SC 3 heating customers will receive both an increased discount to the volumetric charge for usage in the 4-90 therm block, and an additional \$7.25 discount on the minimum charge. Based on these increases, the gas low income program is projected to cost approximately \$10.9 million annually for customer and volumetric charge discounts and an

additional \$75,000 annually for the reconnection fee waiver program, nearly doubling the annual cost of the program and providing significant additional discounts to low income gas customers in the Company's service territory.

For the electric program, both Staff and the Company again proposed generally to maintain the funding at its current level, while other parties proposed changes that would significantly increase the cost of the program. To resolve the differing approaches to electric low income discounts, the Proposal increases the discount on the minimum charge from \$8.50 to \$9.50 for eligible customers. As a result, the electric program is projected to increase by approximately \$9.75 million for a total of approximately \$47.5 million annually for customer charge discounts and an additional \$500,000 annually for the reconnection waiver program.

In addition to the increased discounts for both electric and gas low income customers, the Proposal enhances customer enrollment in the low income program through the New York City Human Resources Administration and the Westchester County Department of Social Services (together, the "Agencies"). Under the Proposal, the Company will initiate reconciliation of the Agencies' records of recipients of eligible benefits with Company records of all electric SC1 and gas SC1 and SC3 records semi-annually as opposed to annually. Performing the reconciliation twice a year will result in more timely enrollment/de-enrollment of all eligible/ineligible customers. All other Company enrollment procedures will also continue. Additionally, based on significant controversy regarding who should bear certain administrative expenses incurred by the Agencies in performing the semi-annual reconciliation, the Company agreed to contribute (without reimbursement from customers) \$50,000 annually to the Agencies' administrative costs of the semi-annual reconciliation (with Company customers bearing up to an additional \$50,000 of actual administrative expenses incurred by the Agencies).

Recognizing the significant increases in projected costs of the programs, the Proposal also establishes procedures to adjust the amount of discounts prospectively if the level of participation is

materially greater or less than anticipated, in order to maintain the cost of the program at or about the level contemplated by this Proposal. Specifically, the electric low income discount amount may be adjusted up or down by up to 50 cents in RY2 if the number of participating customers results in the annual cost of the program being more or less than the targeted annual cost by more than 10 %. This represents a larger tolerance band than the current 5 % tolerance band, which will make it less likely that low income customer discounts will be reduced in RY2.

The Proposal reflects a concerted effort among both Signatory Parties and non-signatory parties and represents a reasonable outcome based on the varied positions taken throughout this proceeding and are within the range of results that likely would have resulted from a Commission decision in a litigated proceeding. Moreover, the Proposal addresses various low income proposals that PULP supported.³⁵ For instance, the Proposal implements PULP's proposal to maintain the SC 1 non-heating discount; PULP proposed to create an SC 3 heating discount of \$10.00 and the Proposal creates an SC 3 heating discount of \$7.25; PULP proposed to maintain the SC 3 volumetric discount, which the Proposal maintains and increases; PULP proposed that the electric low income discount be increased from \$8.50 to \$10.00 and the Proposal increases it to \$9.50; PULP proposed to include Medicaid as a qualifying program in the electric low income program, rather than eliminating it from the gas program as proposed by the Company and Staff -- the Proposal does not include Medicaid as a qualifying program for electric but maintains Medicaid as a qualifying program for gas. As proposed by PULP, the Proposal also allows customers that received a reconnection fee waiver during the current rate plan to be eligible to receive a waiver during the new Rate Plan. Finally, the semi-annual reconciliation of customer records to enhance customer enrollment and the Company's agreement to fund Agency administrative costs in the amount of \$50,000 a year also address PULP low income proposals.

³⁵ See PULP Reply Brief, p. 15.

Accordingly, the Proposal establishes electric and gas low income programs that provide significant increases to low income discounts at a time when the average residential customer delivery rates will, in effect, remain at current levels. And although the Proposal provides for a material increase in the cost of the programs, the increases in discounts strike a reasonable balance between assisting low income customers and not unduly burdening the rates paid by other customers that may also be experiencing economic hardship but do not qualify for this program.

I. Customer Service/Retail Access Issues

The Proposal includes various provisions that continue and enhance the Company's commitment to customer service. The following are examples of such provisions.

1. Outreach and Education

The Proposal continues the Company's development of outreach and education efforts in a variety of areas, with several enhancements. The Company will continue its focus on obtaining customer cell phone numbers and e-mail addresses to enhance communication with customers and will continue to place significant emphasis on natural gas outreach and education. The Company will also provide several enhancements related to outreach and education for its new VTOU rate, including development of an online calculator to assist customers in determining whether the new rate will benefit them.

2. Service Terminations and Reconnections

The Proposal provides for increased efforts on the part of the Company to attempt same-day electric service reconnection for customers whose service was disconnected at the meter for non-payment and who become eligible for reconnection by 5:00 pm Monday – Friday. These efforts represent a commitment beyond what is required by Commission regulations and will likely result in weekday service reconnection more quickly for many electric service customers. This commitment is a compromise that addresses concerns raised in this proceeding by both Signatory Parties and non-signatory parties. The Proposal also reflects a Company commitment to file a quarterly report on

residential same-day reconnections, which also addresses concerns raised in this proceeding by both Signatory Parties and non-signatory parties.

Throughout the proceeding, PULP raised concerns related to the Company's service termination practices and generally urged that the Company should reduce reliance on service termination as a bill collection measure.³⁶ The Company demonstrated that it takes disconnecting service very seriously and that it follows the customer safeguard procedures detailed in the Commission's Home Energy Fair Practices Rules for service terminations.³⁷ Moreover, PULP provided no specific proposals for the Company to consider. Given PULP's generic and unsupported assertions, which were not supported by any other party in this proceeding, there was no reasonable basis for the Proposal to further address service terminations.

3. Retail Access Matters

The Proposal provides several enhancements to the Company's retail access program that address concerns raised in these proceedings by both Signatory Parties and non-signatory parties.

First, the Proposal provides for the Company to develop an online historic bill calculator that will allow retail access customers to perform historical bill comparisons of their prior year's ESCO bill compared to what they would have paid as a full service customer. Staff, UIU, and PULP advocated for the development of this calculator in advance of guidance from the Commission in its pending Retail Access Proceeding (Case 12-M-0476) where this matter is being considered on a generic basis. Moving forward with the development of the calculator in advance of such guidance represents a compromise on the part of the Company. Second, the Company committed to enhance its facilitation of retail access service portability for residential customers that are moving within the Company's territory and wish to retain their ESCO service at their new location. Lastly, the Proposal

³⁶ PULP Reply Brief, p. 17.

³⁷ Con Edison Initial Brief, p. 21.

accommodates a request by RESA,³⁸ made for the first time in its Initial Brief, that information that the Company reports to the NYISO be based on time-differentiated usage for non-interval metered customers taking service under a time of use rate. This change will allow ESCOs to recover savings provided to ESCOs time-of-use customers that shift load to off-peak periods.

RESA also raised for the first time in its Initial Brief a proposed change to the Company's consolidated utility billing offering, which requires ESCOs to provide their applicable rates to the Company prior to the Company's scheduled billing date. The Company explained in its Reply Brief (at p. 156) that there was no evidence or testimony in the record to support RESA's position and that RESA's request would require significant modifications to the Company's billing practices for which RESA did not establish any reasonable basis. Therefore, the Company believes that it is reasonable that this matter was not addressed by the Proposal.

4. Steam Prolonged Outage Customer Protections

The Proposal provides new steam customer protections following prolonged steam outages caused by storm events that represent a significant departure from past practice and establishes customer protections that go beyond what is required by regulation or Commission Order. Specifically, although the Commission's recent *Order Establishing Policies* in Case 13-M-0061 mandated certain protections for electric customers, there was no such mandate for gas or steam customers. For steam customers, the Order provided for the Company to address what protections, *if any*, should be established for steam customers in the Company's next steam rate proceeding.

To resolve issues in these proceedings, and to address the position of various parties that steam customers should be provided protections in the event of an interruption of steam service due to a major storm, the Company agreed to establish certain protections of potentially material benefit to customers and at a significant cost to the Company. The new protections specify circumstances under which the Company will suspend credit and collections activities and the imposition of late

³⁸ Retail Energy Supply Association ("RESA").

payment charges for either seven (7) or fourteen (14) days, and in some cases, provide a credit to the customer charge, for customers that experienced a steam outage exceeding five (5) days following a storm event.

J. Studies and Reports

The Proposal resolves most issues raised by the Company's rate filings and the parties' responses to these filings, either affirmatively through the rates and terms set forth in the Proposal, or by concluding that certain proposals should not or need not be addressed at this time. For a number of matters, the Signatory Parties agreed that further study is necessary and/or appropriate before making recommendations to the Commission regarding changes to rates or terms of service, and/or before the Commission should rule on any such proposed changes. These areas of study include comparing the Company's use of contractors to the use of collective bargaining/union employees for utility functions currently performed by both union and contractor resources; the Company's use of distribution system voltage reduction; the benefits and impacts of interruptible customers on the Company's gas system; and the potential transfer of a portion of the Company's Hudson Avenue property from the steam system to the electric system.

Although one benefit of multi-year rate plans is providing greater certainty as to the Company's rates and services for a period of years, some of the studies that the Company has agreed to perform could result in recommendations to the Commission for changes to take effect before the expiration of the Rate Plans. For that reason, the Gas Interruptible Study is premised on the principle that any changes implemented before new base gas delivery rates are set will be implemented on a basis that is revenue neutral to the Company because, for example, the impact of changes to interruptible service would not have been considered and/or captured as part of the agreed-upon

forecasts that form the basis of the firm gas rates established by the Proposal. Such protection has precedent in prior Company rate plans adopted by the Commission.³⁹

K. Miscellaneous Provisions

The Proposal contains a section comprised of a number of generally standard multi-year rate plan provisions, including, for example, provisions that explain the extent to which provisions of the Proposal should continue until base delivery rates are changed by Commission order, except for a handful of provisions that continue unless and until changed by Commission order; the circumstances under which it may be necessary or appropriate to change the Company's rates during the term of the Rate Plans; and that the Company should defer on its books of account the full change in expense, up or down, resulting from changes in tax laws and/or other laws, rules and regulations that result in a change in the Company's annual electric, gas or steam costs in an amount equal to or more than ten (10) basis points ("new laws provision").⁴⁰

With respect to the new laws provision, the Company essentially accepted a continuation of the current provision, notwithstanding numerous ongoing regulatory initiatives that have the potential to impose increased costs on the Company not contemplated by the rates established in these proceedings, and which may not individually, but may in the aggregate, exceed the ten basis point threshold. Accordingly, the Company is, in part, relying on the Commission to act in such proceedings in a manner that recognizes that current rates do not contemplate incremental costs associated with the implementation of new Commission initiatives and therefore provides, as appropriate, for recovery of such costs in the orders issued in those proceedings.

³⁹ See, for example, 2010 Electric Rate Order, Appendix 1, p. 57.

⁴⁰ This "new laws" provision places the Company at risk of absorbing as much as \$14.9 million of additional expense for electric, \$3.6 million for gas and \$1.5 million for steam annually under the terms of the Rate Plans. On the other hand, the Company notes that the Proposal carves out for the benefit of customers the potential effect of reduced costs to the Company as a result of changes to the New York State Workers Compensation Insurance laws included in the 2013–2014 New York State Budget and related implementing regulations of the Workers Compensation Board, without reference to the ten basis point threshold applicable to other changes in law.

As this Proposal constitutes the first Con Edison joint proposal to address its electric, gas and steam rate plans simultaneously, and because terms and conditions for these rate plans are the same in some respects but different in other respects, the Proposal includes a new provision (“Scope of Provisions”) that recognizes that no term or provision of the Proposal that relates specifically to one or more but not all of electric, gas or steam service limits the rights of the Company or any party to petition the Commission for any purpose with respect to the service(s) not specified in such or provision.

IV. Conclusion

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, certain 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.

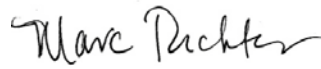
In the final analysis, the Proposal should be approved in all aspects because it resolves the various issues presented in a manner fully consistent with the public interest and, as detailed in this Statement, within a range of results that could be expected in a litigated proceeding; reflects agreement among normally adverse parties; and comports with the Commission’s current policies.

The Company faces numerous operating, financial and regulatory risks and prospects under this Proposal and must continue its mission of providing unparalleled service reliability in what is most likely the most challenging environment faced by any utility in the nation. The Company

assessed these risks and prospects, 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.

Dated: January 9, 2014
New York, New York

Respectfully submitted,



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