February 13, 2012

Honorable Jaclyn A. Brilling
Secretary
New York State Department of Public Service
Three Empire State Plaza
Albany, NY 12223

Re: Case 09-E-0115 – Petition of Consolidated Edison Company of New York, Inc. for Approval of Changes to Demand Response Programs

Dear Secretary Brilling:

Riverbay Corporation, commonly known as “Coop City”, respectfully requests permission to have this letter considered in response to the Supplemental Engineering Statement filed by Con Edison in the above captioned proceeding on February 6, 2012.

Con Edison commenced this proceeding on November 17th, 2011 by the filing of a Petition. The Commission then issued a Notice of Proposed Rulemaking on December 21, 2011, with comments due by February 6th, 2012. On that date Con Edison supplemented its filing, thereby depriving all other parties of the opportunity to consider and comment upon the information contained in the Supplemental Engineering Statement.

Con Ed’s supplemental submission directly impacts the interests of Riverbay Corporation. Riverbay is an affordable housing cooperative which recently constructed a 40 MW cogeneration facility, certified as a QF with FERC on March 3rd, 2011. The facility provides heat, hot water, chilled water, and electricity for a residential population of approximately 60,000 individuals. The peak load of Riverbay approximates 24 MW.
Prior to the construction of Riverbay’s cogeneration facility, Con Edison was fully responsible for meeting Riverbay’s load. Now, subject to certain limitations, Riverbay supplies most of its entire load, thereby reducing demand upon the Con Ed System. When Riverbay requires power from Con Ed it receives electric service as a standby customer under SC-14RA, and pays standby rates for that privilege. Riverbay also reserves the right to export power under SC-11. Under the proposed tariff amendments, Riverbay would be disqualified from receiving any reservation payments under Rider S or Rider U simply because it is an SC-11 customer. The original filing provided no factual or engineering justification for this disparate treatment.

The February 6th, Supplemental Engineering Statement purports to justify that disparate treatment. It assumes the existence of a constrained distribution system into which the export of power from a customer’s on-site generator would “negatively impact network reliability”. The Engineering Statement further states “while there may be rare circumstances where the localized export of generation to the system may have some benefit, the uncertainty and case specific nature of such circumstance makes the economic benefit problematic to calculate … in a tariff based program”.

Con Ed’s argument actually supports the opposite conclusion. If Con Ed believes that a case by case approach is necessary then it should not be amending the tariff to impose a blanket prohibition. The tariff should not be changed to exclude all SC-11 customers. Rather, SC-11 customers should be allowed to apply. In fact, Riverbay’s usage and export profile benefit the system, and substantially reduces demand on the system. There is no reason why Riverbay should not be entitled to participate and to receive a reservation payment to the extent that it either removes load or exports to the Con Ed system, simply because Riverbay has the capacity to generate more power than it needs.

With regard to export, Con Ed’s assumption that Riverbay’s export would “negatively impact network reliability” has no factual basis. Con Ed’s own engineering department has found the opposite to be true. Riverbay’s export is safe, reliable and a net benefit to the local distribution system. It does not “negatively impact network reliability”.

Riverbay spent millions of dollars building and designing a safe and reliable interconnection to Con Ed’s system. The four 26kv feeders into which Riverbay exports its power were originally constructed to serve Riverbay. As presently configured they are capable of either serving Riverbay’s load or of exporting power to help support part of Con Ed’s load. Prior to approving Riverbay’s interconnection, Con Ed and Riverbay completed detailed reliability, impact, voltage and short circuit studies. The studies confirmed that Riverbay’s export of power, subject to a 30 MW limitation on Riverbay’s export capacity, and an agreement that Riverbay would not export or sell VARS, was safe, reliable and beneficial to the local distribution system.
In order to comply with Con Ed's needs, Riverbay not only built and paid millions of dollars for an interconnection system, but agreed to forego two (2) salable commodities: 10 MW of power and VARS. Those limitations were incorporated into a lengthy, detailed and negotiated interconnection agreement, a copy of which is on file with the Commission. If requested, Riverbay is prepared to file copies of the studies and the interconnection agreement in this proceeding.¹

Riverbay has the capacity and willingness to assist Con Ed in meeting its load and demand management requirements. However, the cost of doing so often exceeds the energy payments which Riverbay would receive under SC-11. As such, a unique asset which could benefit the system is not fully or efficiently utilized by Con Ed. If Riverbay were allowed to participate in Rider U and Rider S, Riverbay would be more likely to provide the additional support that Con Ed needs. Contrary to Con Ed's assumptions, allowing Riverbay to participate in Rider U and S would not encourage unnecessary or burdensome export. Riverbay is not a "merchant" plant. It's primary responsibility, and incentive, is to meet the thermal load of its 60,000 residents. Any decision by Riverbay to export for a Con Ed need is an additional burden to Riverbay. If Con Ed wants to encourage Riverbay to consider and provide additional assistance to Con Ed in meeting system load, then more than the limited energy payments provided by SC-11 are required.

Excluding Riverbay from participating in Rider U and Rider S programs would send the wrong signal to a unique customer capable of providing additional support to Con Ed's Demand Response programs. As such, Con Ed's proposal should be denied to the extent that it seeks to exclude customers receiving service under SC-11 from participating in Demand Response programs; and Con Ed's tariffs should be modified to expressly include SC-11 customers as permitted participants in Rider U and Rider S.

Respectfully submitted,

Jeffrey D. Buss, Esq.
Jennifer L. Stewart, Esq.

¹ Certain exhibits to Riverbay's interconnection agreement were filed under seal, primarily for security and safety reasons. Those portions are irrelevant to this proceeding and should remain sealed.