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August 24, 2015

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

Re: Case 14-M-0565 Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers

Dear Secretary Burgess:

In accordance with the July 7, 2015 *Notice of Technical Conference, Extension of Deadline for Initial Comments, and Opportunity for Reply Comments*, Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc. submit the enclosed Comments in the above-referenced proceeding.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

/s/
Kerri Kirschbaum
Senior Attorney

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers — **CASE 14-M-0565**

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

Consolidated Edison Company of New York, Inc. ("Con Edison") and Orange and Rockland Utilities, Inc. ("O&R") (together, the "Companies") submit these comments in response to the July 7, 2015 *Notice of Technical Conference, Extension of Deadline for Initial Comments, and Opportunity for Reply Comments*[1] on the June 1, 2015 Staff Report ("Report")[2] addressing energy affordability for low income utility customers in New York State.

Introduction

The Companies appreciate the Public Service Commission's ("Commission") interest in this important issue. Energy affordability continues to remain a high priority for the Companies, many stakeholders, and, especially, for low income families. For the more than one million New Yorkers living at or below the federal poverty line, energy bills represent a significant monthly expenditure and energy decisions impact quality of life.[3] The Companies recognize the importance of simple, reliable, and accessible programs that provide help when customers need it most – and agree with the Commission determination that "continued provision of gas, electric

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[1] Case 14-M-0565 – Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers.
[2] *Id.*
[3] Fisher, Sheehan, & Colton. 2014 Home Energy Affordability Gap Study. See http://www.homeenergyaffordabilitygap.com/03a_affordabilityData.html

and steam service to residential customers without unreasonable qualifications or lengthy delays is necessary for the preservation of the health and general welfare and is in the public interest."[4]

Energy bills are driven by several primary factors including: the type of heating fuel used[5] (e.g., oil, natural gas, electricity); customer behavior and usage patterns; rates, which include commodity, delivery, and taxes; weather; and any incentive or discount payments that may offset these charges. The Commission has purposefully limited this proceeding to considering this last element in isolation. Considering these factors holistically, however, would lead to better outcomes for low income customers, better align with the State's policy objectives as outlined in the State Energy Plan[6] and the Commission's Reforming the Energy Vision ("REV")[7] proceeding, and improve the long-term cost-effectiveness of low income programs. For example, better integrating energy efficiency and demand response offerings with smart technology and rate options could help customers manage their energy use to lower their bills. Such an approach could produce lasting value for customers, and ultimately facilitate the market transformation envisioned by the Commission under REV.

The Report proposes significant changes to the Companies' current low income programs. While these proposals merit evaluation and consideration, implementation in many cases will lead to outcomes that counter the Commission's stated objective to "effectively improve energy affordability for low income households while efficiently using ratepayer

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[4] Public Service Law, §30, Home Energy Fair Practices Act ("HEFPA").

[5] The Companies note that energy burdens in New York State are highly correlated with oil prices. This correlation is evidenced in the year-to-year difference in home energy burden noted by Fisher, Sheehan, & Colton in their 2013 and 2014 Home Energy Affordability Gap studies. In 2013, when oil prices reached $4.61/gallon, the energy burden for those at or below 50 percent of the federal poverty level experienced a home energy burden of 41 percent. In 2014, when oil prices dropped to $4.45/gallon, the energy burden faced by these customers fell to 31 percent.

[6] New York State Energy Planning Board. The Energy to Lead: 2015 New York State Energy Plan. Issued June 25, 2015.

[7] Case 14-M-0101 – Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision.

funds."[8] As proposed in the Report, future low income programs would reduce benefits to many current participants in the Companies' programs, cost more to implement, and would introduce significant volatility in benefits available to customers that rely on them most.

While the Companies do not oppose efforts to harmonize the design of low income programs of the State's utilities, which could take the form of policy guidance issued by the Commission in this proceeding, a lock step approach would be misguided. Individual utility low income programs are tailored to diverse populations with different needs. Indeed, due to the composition of their service territories, the Companies note that their lowest income customers face significantly different, and lower, home energy burdens (ranging from 25% to 37%) than those observed in other parts of the state (which can exceed 55% in some counties).[9] Low income programs should be utility-specific and funding levels decided in base rate proceedings, where all stakeholders to the rate proceeding will have an opportunity to weigh in, within the context of the Companies' total program needs and financial requirements. Additionally, utilities should not be expected to increase low-income subsidies to offset federal and state program funding reductions. For example, in the case of O&R, total Home Energy Assistance Program ("HEAP") benefits received for the 2014/15 Heating Season were $1.2 million less than the benefits received in the 2009/10 Heating Season, while the number of customers that received such benefits during the 2014/15 Heating Season was greater by seven percent (747 more customers) than the number that received such benefits during the 2009/10 Heating Season. Under the proposals in the Report, O&R customers would bear an additional low income support cost of $4.6 million, or 102 percent above the $4.5 million provided in the Joint Proposal

[8] Case 14-M-0565 – Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers. *Order Instituting Proceeding.* Issued January 9, 2015.
[9] Id. Fisher, Sheehan, & Colton. 2014 Home Energy Affordability Gap Study. See http://www.homeenergyaffordabilitygap.com/03a_affordabilityData.html

pending Commission approval, which itself reflects a $1.8 million (66 percent) increase in low income assistance.[10] HEAP benefits to utility customers should be restored to previous levels and consideration should be given to coordinating efforts to provide for low income energy assistance across all benefit sources, without undue reliance on utility rates.

The Companies respectfully submit the following specific comments on the Report.

1. Straw Proposal Guiding Principles

The Report indicates that Staff was guided by several principles in developing their straw proposal.[11] The Company notes, however, that aspects of certain proposals contained in the Report are inconsistent with these principles.

The first principle is that the low income programs should be simple to understand, explain, and administer. A second principle is that low income programs should automatically enroll eligible customers and be automated to greatest extent practicable. The Companies agree with each of these principles. However, the proposals in the Report will transform what are currently streamlined, efficient programs with minimal administrative costs into cumbersome programs that require significant expense to implement from both a systems perspective and an ongoing resource perspective. The reasons for such costs are described below.

Another guiding principle of the Report is that low income programs should be available to customers under the same eligibility guidelines currently used in the State for HEAP programs.[12] Although the Companies do not oppose this guiding principle, its implementation and ongoing administration is far more complex than the Report acknowledges. The proposals in the Report, which would require the Companies to assign low income eligible customers into

[10] Case No. 14-E-0493, et. al.
[11] Id. Pages 20-21.
[12] Id.

one of four tiers with varying discount levels based on the level of HEAP payment received, would require the Companies to evaluate each HEAP payment as it is received. The Companies currently do not assign low income customers in this manner. Moreover, as explained below, the Report fails to demonstrate that such evaluation and assignment process will be simple or clear at all times. Indeed, the Companies are concerned that customers may not ultimately be assigned to the correct discount level tier.

A fourth guiding principle is that low income programs should provide meaningful bill discounts to participating customers.[13] However, under the proposed discount levels identified in the Report, the discount levels for many of the Companies' customers currently participating in the Companies' low income programs would be reduced, many significantly. For instance, for Con Edison, for the overwhelming majority of customers, electric discounts will be reduced from $9.50 to $7.00 per month. For O&R, the reduction is even greater. For O&R tier one low income electric heating customers, the discount will be reduced from $27.00 to $5.00. For O&R gas heating customers, the discount will be reduced from $17.00 to $5.00. As will be discussed below, although the Report attempted to make discounts align with a six percent energy burden per low income customer tier, the Companies question many of the assumptions that relied on in developing this structure and ultimately the discount levels for each tier.

2. Eligibility/Enrollment

The Report recommends that eligibility criteria for utility low income programs be primarily based only on participation in HEAP, but recommends that Con Edison should be able to maintain its existing expanded criteria. The Report does contemplate potentially expanding

[13] Id.

eligibility requirements, but only to the extent it can be accomplished through automatic enrollment and with little administrative burden.

The Report proposes a discount structure that would apply four tiers of fixed discounts designed to achieve a targeted energy burden as a percentage of income (i.e., six percent energy burden), for an affordability block consisting of utility-specific typical usage levels of heating and non-heating customers. The discount level would vary with customer income, which is estimated by the number of HEAP add-ons (i.e., additional dollars for the customers with the lowest income or special needs) received or direct voucher program participation. The goal is to allocate greater financial support to customers with the assumed lowest incomes.

The Companies' systems currently only capture that a customer has received a HEAP payment, which triggers automatic enrollment into the Companies' low income programs. Requiring the Companies or municipal or county social services agencies to evaluate the amount of the HEAP payment to determine which tier the customer belongs will significantly increase administrative complexity. As discussed below, not only will systems need to be modified to account for multi-level discounts, but certain assumptions would also need to be automated to assign a tier based on the amount of HEAP dollars passed to customers. Although HEAP payments are typically \$350, \$375 with one "add-on" and \$400 with two "add-ons," the Companies are concerned that it is not adequate to simply rely on these dollar amounts to assign customers to a tier. First, the Office of Temporary Disability and Assistance ("OTDA") annually determines the dollar amounts assigned to individual HEAP recipients at the start of each HEAP season. Therefore, these HEAP dollar amounts will change at least annually, requiring the Companies to continually update programs and systems based on OTDA's determinations, with the associated increased administrative costs to the program. It is also not uncommon for OTDA to conclude that there are additional dollars remaining in an annual budget year and issue supplemental payments to HEAP recipients. Under the proposals in the Report, these supplemental payments could result in a customer's migration from one low income tier to a tier with a higher utility benefit, even though there was no increase in financial need for that customer. Accordingly, should the Commission pursue this approach, OTDA should itself identify which tier a customer should be placed in when a HEAP payment is made.

Moreover, although the Report does state that Con Edison can maintain its current program eligibility parameters, it does not specify to which tier non-HEAP qualifiers would be assigned. Also, the Report proposes to add an additional category of eligible electric customers who are not HEAP eligible to the Con Edison program. The addition of Medicaid customers to the low income population was considered during Con Edison's 2013 rate proceeding but no action was taken. The addition of this group, which represents over 100,000 customers, to the low income program should only be contemplated during a rate proceeding in which bill impacts and other issues may be considered. During the technical conference on July 30, 2015 ("Technical Conference"), Staff maintained that Con Edison, and other utilities with additional qualifying programs, put all customers that have qualified for the low income program based on a non-HEAP qualifying program into tier one, with the lowest level of discount. For Con Edison, only roughly eight percent of the approximately 400,000 customers participating in its low income programs receive HEAP. Of those 32,000 HEAP customers, only 6,000 receive a HEAP "add-on." Therefore, more than 85 percent of Con Edison's low income program participants will receive a smaller discount than they currently receive.

Finally, the Report proposes a fourth tier for customers that receive direct voucher payments. The Report states that this is because these customers represent those most in need of assistance. The Report overlooks the fact that customers receiving a direct voucher are having their entire energy bill paid for by social service agencies directly. Therefore, their energy burden is zero. For this reason, the Companies believe the fourth tier should be eliminated in its entirety, and direct voucher customers should be treated like other existing non-HEAP qualifying customers, eligible for a generic discount.

3. Benefit Levels

The Report proposes benefit levels for each of its four proposed tiers, further differentiated by electric heating, electric non-heating, gas heating and gas non-heating.[14] This in effect results in sixteen different discount levels that must be managed by the Companies. Moreover, the Report states that the amount of the discount would be reset either annually, or over the terms of rate plans, using this method.

This approach runs counter to the Report's guiding principle of simplicity in that it seems neither readily understandable, nor easily explainable to customers, nor straightforward to administer.

4. Budget Billing Requirement

The Report indicates a preference that customers participating in low income programs be required to enroll in utility budget billing programs. The Companies do not support a requirement for budget billing. Only approximately six percent of Con Edison's low-income customers are currently enrolled in budget billing, reflecting that customers do not generally choose this option voluntarily. Imposing a mandatory requirement for customers to enroll in this

[14] It should be noted that Con Edison does not have electric heating customer data precise enough to accurately assign tiers based on this approach.

plan would undermine customer choice, and unfairly discriminate among customers based on their income level. Furthermore, customers who are in arrears are automatically removed from the budget billing program, further complicating the implementation of this measure.

5. Proposed Budget Caps

The Report advocates that utility low income programs should set an upper limit on program funding. The Report states that such limit could be based on a percentage of utility total or delivery revenues, on a dollar amount per customer, a maximum charge per kWh or therm, or a combination of those factors. Staff then proposes that the budget limit be set based on a dollar amount per customer per year to support the program.[15] Specifically, Staff proposes that utility low income programs should cost the average utility customer a maximum of $20.00 per year for the electric program and $35.00 per year for the gas program.

A budget limit is a critical tool to manage and control low income program costs. However, the Report did not provide a justification for its proposed limits. For a cooking gas customer using only a small volume of gas per month, for example, even a $35.00 annual contribution could represent a significant percentage increase on their total bill. The Companies advocate for a volumetric approach to establishing per customer allocations that would assign costs equitably among rate classes and reasonably align contributions with usage.

To enforce this cap, the Report proposes that low income programs should be curtailed if the cap is met or exceeded. First, the Report proposes that all benefits to non-HEAP low income program participants be eliminated and those customers made ineligible for program assistance.

[15] The Companies agree that a critical aspect of any low income program is a reasonable budget or "cap" that protects non-low income customers from subsidizing low-income customers solely on the basis of energy affordability. While the Company accepts low income programs as a routine element of utility ratemaking, and endeavors to provide safe and adequate service at the lowest reasonable cost, there must be limits on the extent to which the cost of providing service to low income customers is adjusted to achieve "energy affordability."

Next, the Report proposes that benefits to remaining customers be reduced. The Companies strongly oppose this approach. First, this would introduce significant variability in benefits that many customers rely on in their monthly budgeting. Because energy bills are highly correlated with weather, this could result in low income programs running out of funding and benefits being reduced precisely when they are needed most. Bill stability can be critically important for low income customers who are managing a number of competing demands for limited funds. Allowing their electric bill to vary substantially because a low income program budget cap has been reached could result in more customers being unable to pay their bills in full, potentially increasing arrears and disconnections. In the REV Track 2 White Paper, Staff supported the concept of 'rate gradualism' – allowing major rate changes to occur only over longer time periods so that customers can adapt to new rate structures. A low income rate design that results in some of the most vulnerable customers suddenly experiencing an increased rate due to reaching budget caps that are clearly outside of the customer's control would appear to be the opposite of rate gradualism and should not be adopted.

As recognized in the Report, program costs should be deferred and fully reconcilable. The Report is unclear when the program should be reevaluated and a new budget set or new levels of discounts established. The Companies believe that such reevaluation should be done in the context of a rate case.

Finally, in addition to the foregoing reasons, eliminating non-HEAP qualifying customers from the program if the budget cap is reached is also administratively unworkable. The Companies, for privacy reasons and in compliance with State and Federal law, are not made aware of which social service program a customer qualified for in order to be eligible for Con Edison's low income program. For this reason, Con Edison and the social service agencies in

New York City and Westchester have developed processes to conduct a semi-annual file match and procedures for consent and the ability for customer opt-out. During the Technical Conference, Staff suggested that during the semi-annual file match that the Company request those agencies to not include customers that would qualify based on certain programs. The Companies believe this approach is unclear, would be inequitable to current program participants and would lead to confusion. Moreover, the Report does not indicate which customers should be eliminated from the program, leaving utilities in the awkward and unenviable position of having to make such a determination. Accordingly, the Companies believe that changes to the qualifying programs to participate in utility low income programs only be made in the context of utility rate proceedings.

6. Arrears Forgiveness

The Report discusses new parameters for arrears forgiveness programs at length, but does not require utilities to develop such programs. As was discussed at length in the Companies Comments in Response to the January 16, 2015 *Notice Seeking Comments*, the Companies do not support implementation of an arrears forgiveness program because such a program would be extremely challenging and administratively burdensome for the Companies to implement, and necessarily have extremely high administrative costs. For Con Edison, who has more than 400,000 customers enrolled in its low income programs, the potential number of individual customers for whom the Company may need to process information would be extremely costly, and would shift capped low income funds away from directly benefiting low income customers. Finally, there is not adequate evidence in the record in this proceeding that arrears forgiveness programs assist low income customer to meaningfully manage their energy burden.

Staff indicated in the Technical Conference that arrears forgiveness programs are not mandatory. The Companies agree.

7. Terminations and Reconnection Fee Waivers

The Companies strongly oppose the proposal in the Report to prohibit utilities from collecting reconnection fees from low income customers. The Report's suggestion that utilities may be singling out low income customers for termination is unsupported. The Companies terminate service only as a last resort and in compliance with Commission rules and regulations, which dictate the circumstances in which utilities are directed to terminate service to customers.

The Report states that this proposal is based on a review of data that could potentially indicate that utilities terminate service to low income customers at a greater percentage than the rest of customers. This data source is unreliable and is based on unsupported assumptions. Staff acknowledged this fact at the Technical Conference where Staff explained that it did not have reliable data to support this conclusion. The Report's proposal also disregards the ill-conceived requirement that low income customers must receive a service termination letter in order to qualify for an emergency HEAP grant, which is likely contributing to what may otherwise be needless service terminations. The Companies believe this is a significant issue and request the assistance of the Commission in working with other State agencies to eliminate this inequitable, counterproductive, and burdensome requirement.

In addition, if utilities are not able to charge low income customers reconnection fees, the costs incurred to reconnect service to low income customers must necessarily be recovered from other customers, thereby further increasing the subsidy by other customers and reducing the funds otherwise available to assist all low income customers.[16]

For these reasons, the Companies strongly oppose the Report's proposal to prohibit utilities from collecting reconnection fees from low income customers.

8. Tracking/Reporting

The Companies agree with the Report that additional tracking and data collection could provide useful information to assist in evaluating low income programs. The Report points to the Collection Activity Reports currently submitted by the utilities as a guide to what data should be tracked. The Companies are not opposed to tracking certain low income customer-specific information and data. However, it is premature to develop those tracking protocols. Once the Commission adopts new standards for low income programs, tracking mechanisms can be developed and designed based on the type of program design approved by the Commission.

9. Metrics

The Report states that it may be appropriate to establish earnings-based incentives related to low income programs. Specifically, the Report states that an earnings-based incentive related to reductions in residential terminations and bad debt expense would provide value. The Companies do not oppose consideration of earnings-based incentives related to low income programs. Such metrics should be developed in the context of utility base rate proceedings consistent with similar measures currently being evaluated in Track 2 of the REV proceeding.

[16] O&R and Con Edison's current low income programs provide some funds for reconnection fee waivers, but such amount was taken into consideration in setting the overall low income budget.

8. Low Income Energy Efficiency Efforts

Efforts to improve energy affordability for low income customers should include both discount programs as well as improved energy efficiency and demand management programs. The focus of this proceeding has been, per Commission instructions, solely on the discount programs, but the State can achieve much more for energy affordability if it enhances energy efficiency programs and links them directly to bill discount programs.

Providing low income customers with tools specially designed to help them to monitor, control, and reduce their energy costs would provide increased value when paired with more traditional bill and rate-relief programs and improve the likelihood that customers can stay current on their bills, or more quickly pay off their arrears. The installation of energy efficiency measures provides a sustainable monthly bill reduction and decreases a low income customer's long-term energy cost. Improved energy efficiency not only will help enhance energy affordability for low income customers, but also will provide benefits to all customers by reducing future investment needs of the system. In addition, low income-based energy efficiency programs will help the State to achieve its aggressive energy efficiency, renewable energy and greenhouse gas emissions reductions goals proposed in the 2015 New York State Energy Plan. Enhanced utility-based energy efficiency programs are truly a win-win for all customers.

The Companies are already moving in this direction. In its Energy Efficiency Transition and Implementation Plan filed on July 15, 2015[17] Con Edison described additional activities within the Multifamily and Multifamily Low Income programs that will have enhanced value for low and moderate income customers. These opportunities will include a free enhanced energy

[17] Case 15-M-0252, Draft Energy Efficiency Transition Implementation Plan (ETIP) 2016-2018, Consolidated Edison Co. of NY.

audit and opportunities to participate in custom (e.g., site-specific) energy efficiency and in-unit appliance measures. Further enhancements to energy efficiency offerings available to low income customers across the State could include:

- Enhanced low income energy efficiency programs for apartment dwellers;
- Improved coordination with other utility-based energy efficiency programs;
- Encouraging utilities to offer energy efficiency programs directly to low income customers;
- Encouraging REV-like demonstration projects that reduce low income customer bills and increase efficiency by, for example, including customers in direct-load control programs like CoolNYC paired with higher efficiency AC units that can reduce bills by using less and participating in demand response programs; and
- Including low income customers in innovative rate offerings and pilots that encourage customers to conserve through behavioral techniques and enhanced customer engagement. The role of AMI data in the development of more meaningful engagement should also be considered.

The right balance of enhanced customer energy use management and traditional low income benefits could be analyzed as part of a statewide study, which could be undertaken to analyze in depth the energy-related needs of low income customers across the State. The Companies also intend to use Con Edison's Customer Advisory Community as a means of learning more about what kinds of demand side management offerings would be most useful to low income customers.

There are many ways to increase the engagement of low income customers in their energy decision making, but the State should take a more integrated and effective approach;

relying solely on increased bill discounts to achieve energy affordability is an approach the Companies believe is likely to fall short of what could be achieved.

Conclusion

The Companies appreciate the opportunity to comment on the Report and look forward to further discussion and deliberation with Staff, stakeholders, and customers on this important issue.

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

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