February 16, 2012

Hon. Jaclyn A. Brilling
Secretary
Public Service Commission
3 Empire Plaza
Albany, New York 12223

Re: Case 09-E-0115: Consolidated Edison Demand Response Tariff
Revisions

Dear Ms. Brilling,

On February 6 and February 13, 2012, Con Ed responded to the comments of Consumer Power Advocates (CPA) and other parties who requested modifications to the Company’s various proposals in the above captioned case. The late timing of the Con Ed responses made it impossible to respond on a timely basis. Because of that, CPA requests permission to respond to Con Ed’s assertions.

**CPA’s comments are not beyond the scope of the Notice of Proposed Rulemaking (NOPR).**

In its February 13 filing, Con Ed asserted that our proposed modifications are beyond the scope of the NOPR, which states in part… “The Commission may adopt in whole or in part, modify or reject Con Edison’s proposal.” [emphasis added] The modifications proposed are corrections to the defects of the programs proposed by the Company, and as such, are clearly within the scope of the NOPR.

**Con Ed did not address the equity issue regarding demand relief payments for baseload generation.**

In its response, Con Ed asserted that CPA (and others) have not proposed an alternate for the CBL method to be used for measuring load relief payments, and that we have not defined baseload generation. What the Company did not challenge, because it could not, was our assertion that it cannot provide the standby service for which DG owners pay, during a network relief event. While one may expect responsible operators to continue to generate power during network relief events, they are under
no obligation to do so. During these events, all customers on the affected network are exposed to the risk of loss of power in a way that the Con Ed tariff is explicitly intended to mitigate. Had on-site generator owners been aware of this risk during the planning process, it is entirely possible that some of them would not have made the costly investment in generating equipment.

At least for those customers who pay a Contract Demand Charge under the current or equivalent future standby service tariffs, there is a simple remedy for Con Ed’s concerns about the definition and measurement of baseload generation. For purposes of distribution network relief, may consider that all baseload generation is any generation for which the owner pays the Contract Demand Charge, and its measurement is the full Contract Demand amount. This is the correct amount because the Company is obligated to provide the full Contract Demand in all hours, and during network relief events it has essentially no capability to do that.

Less easy to determine is the exact number of hours in which customers cannot rely on Con Ed for Standby Service. Clearly, any hour in which a network load relief event is in effect is an hour in which Standby Service cannot be provided, but it is also probable that Standby Service cannot be relied upon during many similar hours in other days of nearly the same weather and load condition. Our proposal to require Con Ed to pay the network relief payment only during event hours is not only reasonable, it understates the value provided by on-site generators in those similar hours. For those customers who operate on-site generators and rely on the Con Ed system but are not subject to a Contract Demand Charge, a proper measure of the value of their generation is their actual operation during network relief events.

Con Ed’s objections must be rejected.

The Company’s “engineering statement” regarding the use of export generation for network relief is inadequate.

On February 6, 2012, Con Ed filed what it described as an “engineering statement” asserting that “[e]nergy export to Con Edison’s distribution system from customers’ on-site generation would generally not help alleviate contingency situations.” The important word here is “generally”. Considering that load relief, when needed, is by definition critical to maintaining reliability, it is reasonable to explore every source of relief. The “engineering statement” provides no data, analyses, studies or other information that all on-site generators are unable to support the distribution system in critical hours.\(^1\) Considering the small number of export generators attached to Con Ed’s system, and

\(^1\) In fact, the statement was not prepared by an engineer.
the detailed engineering required to connect them for export, it should be a simple matter to determine which machines are connected in such a way as to allow network relief. The Commission should require Con Ed to search its records to make those determinations.

Please consider these late comments.

Very truly yours,

Catherine M. Luthin

Executive Director