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VIA ELECTRONIC MAIL

Hon. Kathleen H. Burgess
New York Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re:

Case 16-E-0060 – 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 16-G-0061 – 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.

Dear Secretary Burgess:

On behalf of Acadia Center, Association for Energy Affordability, Environmental Defense Fund (“EDF”), Pace Energy and Climate Center, and Natural Resources Defense Council, EDF hereby submits for filing reply comments concerning the Comments Supporting Resolution of Outcome-based EAM Collaborative Issues (the “Resolution Document”), filed November 1, 2016, and the responses to the Resolution by Consumer Power Advocates and the City of New York filed on November 4, 2016 and November 8, 2016, respectively. Initial and reply comments in response to the Resolution Document were contemplated at the Collaborative meeting that took place on Monday, October 31, 2016, and these comments are filed in respect of that discussion.

Respectfully submitted,



Elizabeth B. Stein

Cc: Active Parties

**Reply Comments of Acadia Center, Association for Energy Affordability,
Environmental Defense Fund, Pace Energy and Climate Center and
Natural Resources Defense Council on Comments Supporting Resolution of
Outcome-based EAM Collaborative Issues, filed November 1, 2016 in Cases 16-E-
0060 and 16-G-0061 (collectively, the “Rate Case”).**

Acadia Center, Association for Energy Affordability, Inc., Environmental Defense Fund, Pace Energy and Climate Center, and Natural Resources Defense Council are listed Supporters of the document entitled “Comments Supporting Resolution of Outcome-based EAM Collaborative Issues” (the “Resolution Document”) which Consolidated Edison Company of New York, Inc. (“Con Edison” or the “Company”) filed on behalf of the Company, our five organizations and the New York State Department of Public Service on November 1, 2016, the deadline set for such filing in the Joint Proposal. We, the signatories at the end of these Reply Comments, actively participated in the bi-weekly or more frequent meetings of this Collaborative. The City of New York (“City”) and Consumer Power Advocates (“CPA”), which actively participated in the Collaborative, subsequently filed their own comments providing the reasons why they cannot support the Resolution Document.

The JP established two program-based EAMs to reward achievements of Con Edison’s portfolio of energy and system efficiency programs: namely, the energy efficiency and system peak reduction EAMs. However, because the concept of outcome-based EAMs was new and a significant departure from rewarding achievements by programs, the JP called for this Collaborative additionally to consider what the proper definition, metrics and targets of three outcome-based EAMs identified in the JP – DER Utilization, Customer Load Factor and Energy Intensity – should be. The JP set a deadline for filing of November 1.

Given the novelty and experimental nature of the concept of outcome-based EAMs, and the confined period of time available to the active Collaborative parties to consider what such EAMs should do, how they should be measured and what the thresholds should be for minimum, targeted and maximum incentive payments, controversies were inevitable. The likelihood of resolving all issues to the satisfaction of all party participants was modest. Indeed, the Collaborative decided not to set specific metrics and targets for the Load Factor EAM because of some fundamental issues having to do with making that EAM consistent with the three environmental goals for RY 1.

The newness of outcome-based EAMs for RY 1 is also reflected in the relatively small magnitude of those earnings in RY 1 compared to those for the two program-based EAMs and for the outcome-based EAMs for RY 2 and 3. As the City’s November 7 Comments in their Preliminary Statement point out, the total amount of outcome-based EAMs available in RY 1 is \$5.43 million. This contrasts with \$16.67 million in RY 2 and \$30.59 million in RY3. The

reason for the relatively small size of these EAMs for RY1 is not a reflection of their lack of importance but of a wise inclination to start very modestly in light of the complex array of challenges inherent in properly defining and then setting appropriate metrics and targets for these EAMs.

Nevertheless, many issues were discussed and some were resolved, making substantial progress towards a reasoned and balanced resolution. The progress made in this Collaborative is reflected in the Resolution Document. For that reason, while the document may not be perfect, it makes sufficient forward progress that we can support its recommendations for RY1.

1. Issues relating to Energy Intensity EAM

The City argues that the energy intensity EAM allows for double incentives to shareholders for the same energy reductions as the energy efficiency programmatic EAMs included in the JP. We would like to point out that this overlap will be very small for RY1. The targeted incremental savings levels specified in the JP for RY1 is 15 GWh incremental savings from the Energy Efficiency Program and 5 GWh from the System Peak Reduction Program, a total of 20 GWh above the Energy Efficiency Transition Implementation Plan (“ETIP”) target of 158 GWh for RY1. As discussed in the Resolution Document, the proposed energy intensity outcome-based EAM is designed to incentivize efforts that will result in a decrease in energy intensity beyond recent trajectories. The recent trajectory already accounts for the decrease in energy intensity as a result of the business-as-usual activities in energy efficiency. Considering that ETIP reflects the business-as-usual for the Company, the ETIP target savings of 158 GWh would already be reflected in the trajectory. So, the only potential overlap for RY1 could be the 20 GWh of savings above ETIP. If we assume that the implementation of the energy efficiency programs will be uniformly distributed during RY1, only half of the 20 GWh of savings could show up in RY 1 as a reduction in energy intensity.

Moreover, the RY1 targets for the energy intensity metric are set so that in order for the Company to be paid, a significant usage reduction needs to occur throughout its service territory, which is orders of magnitude more than what could be achieved through the Company’s own energy efficiency program efforts alone. By providing the Company with an incentive to support territory-wide energy efficiency attainment, whether achieved through the Company’s own programs or otherwise, this outcome-based intensity EAM will help build utility support for a robust marketplace for energy efficiency in New York.¹

¹ In order for the Company to start earning any energy intensity EAMs, the residential energy intensity (annual MWh per SC 1 customer) has to decrease from 4.784 to 4.676 – a reduction of 0.108 MWh per SC1 customer, and the commercial energy intensity (annual MWh per employee) has to decrease from 7.584 to 7.164 – a reduction of 0.420 MWh per employee. Assuming a constant number of residential customers of 2.8 million and a constant number of employees of 4.0 million, these correspond to about

The City claims that the energy intensity metric is flawed because it does not consider public employment figures, raising concerns with limiting employment to private employers because there are instances where public employers rent space from private building owners, and vice versa. Since the same private employment figures were utilized in determining the trajectory and setting the target for the commercial energy intensity metric, the City's concern would only be valid if there is reason to believe that the tendency of private employers renting space in public buildings or the tendency of public employers renting space in private buildings in RY1 is expected to be significantly different from the trends since 2010. The City in its comments has not articulated whether it expects this to be the case. The City proposes that the metric be modified to include total employment instead of private employment. We are concerned that this proposal could lead to some unintended consequences. Since the RY1 metric definition includes only the commercial sales in the numerator and private employment in the denominator, including total employment in the denominator without modifying the numerator could distort the relationship between consumption and employment, potentially weakening the metric rather than improving it. ²

2. Issues relating to DER Utilization EAM

The City and CPA oppose the inclusion of demand response included in the NYISO-operated demand response programs as a resource in the DER Utilization metric. However, the way in which the New York Public Service Commission (the "Commission") describes outcome-based metrics as broadly inclusive of actions that qualify as DER Utilization in Con Edison's service territory whether or not Con Edison is a primary or secondary actor or makes no contribution whatsoever warrants inclusion, and for RY2 and 3 we can have further discussions as appropriate to determine how the metric target can be set in a way that takes into account such actions where Con Edison's contribution is low or non-existent. While the NYISO DR program is separate from the Con Edison DR program, there was some brief discussion of better coordination between the two programs within the DSIP engagement group, and we would be interested in pursuing such coordination in 2017 as the Collaborative reconvenes to consider RY 2 and 3 proposals. We also want to note that the impact of such demand response on the DER utilization metric is extremely small. Since the DER utilization metric is specified in terms of MWh, and such demand response is a MW resource called infrequently over the course of the year, the share of demand response in the target for the DER utilization metric would be less

300GWh of reduction in residential sales, and 1,680 GWh in commercial sales --nearly 2,000 GWh of usage reduction.

² The proposed commercial energy intensity metric for RY1 includes commercial SC2 plus SC9 sales but excludes public energy sales. As stated in the Resolution document, it would be appropriate to consider total employment, i.e., public and private employment, upon inclusion of public energy sales in the numerator.

than 0.1%. So, demand response has almost no effect on the ability of the Company to earn a DER utilization EAM.

The City and CPA both claim that the DER Utilization metric is flawed because it can potentially award the Company's shareholders an incentive based on assumptions and not actual outcomes. They mainly oppose the use of statewide capacity factors, which are not specific to New York City or Westchester County. They both argue that actual data should be used to develop capacity factors specific to Con Edison service territory and measure the company's DER utilization performance in RY1.

We are mindful that for RY 1 some of the measurements of outcome-based accomplishments will be based on proxy data in circumstances where actual data may not be available. In our view, the assumptions were fully discussed and are reasonable, but actual data is obviously preferable if it is available. These Comments indicate that, in a number of situations where the proposal for RY 1 is to use calculated data based on assumptions and not actual measured data, the reason is lack of data for RY 1, and the Comments describe steps to be taken during RY1 to improve the availability of actual data for use in RY2 and RY3. For example, at p. 4 in a discussion of DER Utilization, the Resolution Document states: "Because not all DERs are individually metered or measured, MWh produced or consumed by incremental DERs will be determined on an annualized basis using fixed assumptions, described below. The Company will validate metric MWh conversion assumptions against a sample of DER technologies. Those validations will inform future rate year assumptions related to DER Utilization. If and when DERs are individually measured and DERs' operational data becomes available, the DER Utilization metric will be updated to reflect measured data."

Further, in the same section at p. 5, the Resolution Document states with respect to Community and Rooftop Photovoltaics, "End-of-year incremental installed capacity will be tracked from interconnected Solar PV submitted through the New York State Standardized Interconnection Requirements ("NYS SIR") process. The Company intends to validate capacity factor assumptions using any available data from directly metered PV installations for the purpose of informing targets for future rate years." Again, in the discussion of Batteries as Beneficial Electrification, the Comments provide that "End-of-year incremental installed capacity will be tracked from interconnected battery storage submitted through the SIR process. The Company intends to validate battery charging assumptions using any information available from metered battery installations, such as those installed as part of REV demonstration projects, for the purposes of informing targets for future rate years."

All of this was discussed at length during the Collaborative meetings. The City's position that only actual data should be used to measure target achievements is tantamount in many

cases to saying that the measurement in RY 1 should be zero. We disagree when reasonable assumptions, based on empirical evidence from other studies, can be made. We need to move as quickly as possible toward reliance on actual data whenever feasible, and that is a goal for RY2, 3 and beyond.

In addition, we want to make three observations on this point:

- 1) The use of different capacity factors during target-setting and performance measurement could unfairly reward or penalize the Company. Therefore, the same capacity factors should be used in setting the target and subsequently measuring the Company's performance.
- 2) Capacity factors for certain DER technologies, such as solar PV, are weather-dependent. Therefore, the actual capacity factor observed in RY1 may not reflect the performance of a DER technology in a normal-weather year.
- 3) In the event that collaborative parties ultimately conclude that actual capacity factors should be used, capacity factors specific to the Company's service territory can be developed to be used in setting the targets and measuring performance in RY2 and RY3.

The City also proposes that the DER Utilization metric targets are too lax and that the Company's DSIP forecast for DER MWhs should be used to set the minimum target for the outcome-based DER Utilization metric, similar to the manner that the Company's ETIP MWh savings targets were used to set the minimum target levels for the Energy Efficiency EAM that was included in the JP. We think that the ETIP analogy is somewhat misleading. While the Company is fully funded to implement its ETIP program and ETIP savings targets were set based on the program budget, the company is fully funded only for the Non-Wires Alternatives (NWA) portion of the DSIP forecast. The minimum threshold set in the Resolution Document for the DER utilization metric already exceeds the MWh of DER utilization expected from the NWA projects. Furthermore, the DSIP forecasts for DER Utilization do not assume that 100% of that forecast would in the normal course of events be achieved in 2017; indeed, achieving that forecast may take two or more years. In the event that the Commission makes significant additional funding available to the Company in the future rate years for facilitating more DERs, a provision could be made to make those DERs not count in the target or to adjust the target accordingly for RY2 and RY3.

Another issue that was discussed during the Collaborative was the weighting of different DER technologies based on their environmental attributes. Given the limited time that the Collaborative had and the this new outcome-based approach for RY1, the supporting parties agreed to use a weight of 1 for all DERs for RY1 but revisit the weighting issue for RY2 and RY3.

Finally, the City states repeatedly that any outcome-based EAM incentive payment represents a further financial burden on customers. While customers are the source of such incentive payments, the Track Two Order established the concept that EAMs, including outcome-based EAMs, are a component of the earnings opportunity of an electric utility, not some separately imposed burden. EAMs are outcome-oriented, performance-based earning incentives that are designed to complement, and to a modest extent replace, traditional revenue earnings based on a rate of return on capital invested as reflected in the rate base. EAMs are potential payments to the Company that the Commission has recognized as being an important and innovative way of linking earnings in part to performance. Given the timing of the Rate Case, that proceeding became the testing ground for working through various pertinent EAM issues. The JP calls for a rate of return of 9%, in part in recognition of the fact that the Commission has allowed Con Edison to earn up to 100 basis points, or 1% in effect, through EAM incentive payments. We consider EAM earnings to be a reasonable way of providing earnings to the Company.

3. Issues relating to both Outcome-Based EAMs

CPA argues that there is substantial overlap between the Energy Intensity EAM and the DER Utilization EAM and that DERs that include demand response or beneficial electrification necessarily reduce energy intensity as well. While we agree that there is some overlap, the demand response and beneficial electrification are not the primary reasons for the overlap. First, beneficial electrification results in an increase, not a reduction, in electric energy intensity. Second, as stated in the Resolution Document, sales will be adjusted for incremental beneficial usage, which means that the beneficial electrification will not affect the energy intensity EAM. While demand response allows customers to shift their consumption away from the peak period, thus reducing peak energy use, its impact on overall energy use is not clear and, as noted above, would appear to be rather small.

That being said, other technologies included in DER utilization such as rooftop PVs, CHP, and fuel cells would result in a load reduction, and in turn, decrease electric energy intensity. The RY1 target for the DER utilization metric is 244,500 MWh. If we assume that 10% of this target is met through beneficial electrification, then DER-supplied MWh target would be 220 GWh. If the DER utilization target is met in RY1, then we can expect to see about 220 GWh of reduction in the Company's sales in the 12 months following those DER installations. On the assumption that DER installations would be uniformly distributed during RY1 and that the generation from such DER accrues evenly over the course of the year, only at most half of the 220 GWh of DER-supplied electricity (110 GWh) could show up in RY 1 as a reduction in sales

leading to reduced energy intensity.³ This is again relatively modest compared to the sales reduction that need to occur before the Company starts to earn any EAMs.

We look forward to working with Con Edison on its energy efficiency, peak reduction, DER utilization, and other clean energy efforts in RY 1, and to further discussions with the parties that participated in this Collaborative as we consider how to approach all of these matters in Rate Years 2 and 3.

³ The generation from behind-the-meter DER that is consumed on site would reduce the customer's load like energy efficiency. Some DER, like community solar, exports 100% of its output to the distribution grid. In that case, the MWh output from such DER would not affect the energy intensity metric.

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