STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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-E-0060
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REPLY STATEMENT OF THE UTILITY INTERVENTION UNIT TO STATEMENTS ON THE JOINT PROPOSAL

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DIVISION OF CONSUMER PROTECTION
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ALBANY, NEW YORK 12231-0001

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INTRODUCTION

The Utility Intervention Unit ("UIU") of the New York State Department of State's Division of Consumer Protection submits this statement in reply to the Initial Statements on the Joint Proposal ("JP") filed on October 13, 2016 in the above-captioned proceedings, and in accordance with the Public Service Commission's ("Commission") Ruling on Schedule issued September 28, 2016.

The Company and the JP's Signatory Parties have not met their burden of proving that the Settlement is in the public interest[1] and the JP does not satisfy the Commission's Procedural

[1] *See* Cases 16-E-0060 *et al*., UIU Initial Statement on the Joint Proposal 5 (filed October 13, 2016) ("UIU Initial Statement") ("UIU does not object to resolving rate cases through negotiated settlements that are equitable to the

Guidelines for Settlement ("Settlement Guidelines").[2] UIU acknowledges that the JP addresses a wide range of issues,[3] that parties may intervene in a rate case to advocate for a discrete policy interest or customer class, and that parties may support a JP if it adequately resolves specific issues of particular concern to them.[4] However, the allocation of the revenue requirement to customer classes is an issue that is central to the determination of whether the proposed rates are just and reasonable, and is an issue that is of particular concern to UIU. UIU has a statutory mandate to advocate on behalf of *all* energy consumers in New York State.[5] After weighing these diverse interests, UIU determined this JP does not fairly allocate costs between rate classes; it places too large a burden on residential and small usage customers.[6]

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parties and in the public interest. The desire of the parties (including UIU) to reach an expeditious settlement in these proceedings does not relieve the Commission from seeking an allocation of revenues that is fair to all customers – not only those who signed the JP. This JP … would implement seriously flawed revenue allocations that would favor a select group of large customers at the expense of all other consumers. This central aspect of the JP is therefore not in the public interest.")

[2] *See* UIU Initial Statement at 44-49. *See also* Cases 90-M-0255, *Proceeding on Motion of the Commission Concerning its Procedures for Settlement and Stipulation Agreements*; and 92-M-0138, *In the Matter of the Rules and Regulations of the Public Service Commission Contained in 16 NYCRR, Chapter I, Rules of Procedure – Proposed Amendments to Subchapter A, General, Part 2, Hearings and Rehearings by the Addition of a New Section 2.6, Settlement Procedures, filed in C 11175*, Opinion 92-2, Order and Resolution Adopting Settlement Procedures and Guidelines (issued March 24, 1992) ("Settlement Guidelines").

[3] Some issues addressed by the JP include the Company's performance metrics and energy efficiency programs. *See* Cases 16-E-0060 *et al*., Joint Proposal 73-83, 86-87 (filed September 19, 2016).

[4] UIU notes that at least five of the 13 parties who submitted a Statement in Support, limited this statement to certain portions of the JP. *See* Cases 16-E-0060 *et al*., Northeast Clean Heat and Power Initiative Statement in Limited Support of the Joint Proposal (filed October 13, 2016); Pace Energy and Climate Center Statement in Support of the Joint Proposal 8 note 16 (filed October 13, 2016) ("Pace Initial Statement") (Pace notes it does not endorse the sections of the JP "pertaining to electric and gas revenue allocation and the use of the Company's Electric and Gas Embedded Cost of Service Studies ...") ; Association for Energy Affordability, Inc. Letter in Support of the Energy Efficiency Related Provisions of the Joint Proposal 1 (filed October 13, 2016) ("Our participation in the above referenced cases was restricted given staff time commitments and, for that reason, is limited at this time to support of the energy efficiency provisions contained in the Joint Proposal.") ; E Cubed Company, LLC and Joint Supporters Shared Statement in Limited Support of the Joint Proposal (filed October 13, 2016); Metropolitan Transportation Authority Statement in Support of Joint Proposal 4 (filed October 13, 2016) ("MTA Initial Statement") ("the MTA takes no position with respect to the JP's provisions concerning gas service").

[5] N.Y. Exec. L. § 94-a. UIU Initial Statement at 3 ("This mandate requires UIU to work toward an equitable balance of revenue allocations among all customer classes – large customers as well as small. As smaller customers tend to be disproportionately underrepresented in rate proceedings, UIU often places extra focus on issues important to smaller customers, but only insofar as such focus is consistent with fair treatment of all customers.")

[6] *See e.g*., UIU Initial Statement at 22 ("Rather than mitigating the mounting affordability obstacles that residential customers face, the JP's revenue allocations would make them worse. The electric delivery rate increases that would be assigned to residential electric SC1 customers – 4.2%, 4.6%, and 4.5% for each respective rate year – would be four times the current Consumer Price Index (CPI) inflation rate of 1.1%. This Rate Year 1 increase assigned to SC1 customers would be 45% larger than the average increase of 2.9% assigned to all other general-service Con Edison customers.") (citations omitted)

In its Initial Filing on the JP,[7] UIU illustrated how the JP's revenue allocations and rate changes, which are based on a pair of deeply flawed Embedded Cost of Service (ECOS) studies,[8] will not produce just and reasonable rates because they inappropriately shift approximately $49.1 million of costs onto smaller customers, and that shift is not justified by a reasonable cost or revenue allocation process.[9] Further, the JP fails to include a fair and appropriate cost recovery mechanism for Advanced Metering Infrastructure ("AMI").[10]

In their prefiled testimony and initial statements on the JP, neither the Company nor the signatory parties have adequately rebutted UIU's testimony and positions on these issues.[11] They failed to do so despite the fact that it is their burden to prove that their proposal is in the public interest and despite having ample notice of UIU's concerns.[12] Those signatory parties who discussed ECOS issues in their initial statements,[13] merely offered self-serving conclusory

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[7] UIU's Initial Filing on the JP ("Initial Filing") includes the following documents: UIU's Initial Statement, UIU Electric Rate Panel Direct Testimony on the JP and supporting exhibits (Exhibit __ (UERP-JP-1) through Exhibit__ (UERP-JP-10), as well as UIU Gas Rate Panel Direct Testimony on the JP and supporting exhibits (Exhibit __(UGRP-JP-1) through Exhibit __(UGRP-JP-10)).

[8] *See e.g.*, UIU Initial Statement at 5-6 and 23-43; at 41 ("The Company's minimum system approach would allocate 54% of distribution main costs on a per-service basis, despite the fact that those costs do not vary according to the number of service lines. This approach would allocate this same share of "minimum system" main costs - to a large department store as to the tiny bodega across the street.")

[9] *See* UIU Initial Statement at 6 note 8. The proponents of the JP have not met their burden of proving this $49.1 million shift in responsibility is in the public interest, nor have they proven resulting rates are just and reasonable.

[10] *See* UIU Initial Statement at 11-19. The proponents of the JP have not met their burden of proving the AMI revenue requirement has been allocated in a manner which is in the public interest, and results in rates that are just and reasonable.

[11] *See e.g. infra* notes 34-36 and accompanying text (discussing the signatory parties' failure to rebut UIU's argument regarding the Company's misapplication of the already questionable minimum system method.) *See also infra* notes 44-49 and accompanying text (discussing the signatory parties' failure to address AMI cost recovery in both the JP and their Initial Statements.)

[12] *See* Company Initial Statement at 34 noting at "the September 21, 2016 procedural conference, UIU expressed its intention to oppose the use of the Company's ECOS study for setting rates in this proceeding."

[13] UIU notes only eight of the 14 signatory parties who submitted an initial statement in support of the JP even briefly acknowledge the gas or electric ECOS studies which form the basis for the JP's revenue allocation process. *See* Cases 16-E-0060 *et al*., Con Edison Statement in Support of the Electric and Gas Joint Proposal 29-35, 38-40 (filed October 13, 2016) ("Company Initial Statement"); New York State Department of Public Service Staff Statement in Support of the Electric and Gas Joint Proposal 33-35, 44-45 (filed October 13, 2016) ("Staff Initial Statement"); New York Energy Consumers Council Statement in Support of Joint Proposal 2 (filed October 5, 2016) ("NYECC Initial Statement") (UIU notes NYECC only reiterates the JP's agreement to use the Company ECOS for revenue allocation purposes); New York Power Authority Statement in Support of Joint Proposal 3-4 (filed October 13, 2016) ("NYPA Initial Statement) (UIU notes this discussion is limited to the electric ECOS study); Time Warner Cable Inc.'s Statement in Support of Joint Proposal 1 (filed October 13, 2016) ("TWC Initial Statement") (TWC does not explicitly discuss the ECOS methodologies but instead focuses in part on Section G(3)(a) of the JP which provides a rate reduction for the unmetered SC2 customers it represents based on the 2013 ECOS study results); Metropolitan Transportation Authority ("MTA") Statement in Support of the Joint Proposal 2-4 (filed October 13, 2016) ("MTA Initial Statement") (UIU notes MTA limits its discussion to electric issues); City of New York Statement in Support of Joint Proposal 10 ("City Initial Statement"); Consumer Power Advocates Statement in Support of the Joint Proposal 4 (filed October 13, 2016) ("CPA Initial Statement"); Pace Energy and Climate

statements that the JP resolves ECOS issues in a "fair" manner for their class.[14] However, given that most of these parties are primarily concerned with rate impacts on large usage customers rather than the residential and small customers (who are most harmed by the JP's revenue allocation),[15] their acceptance of this aspect of the JP is not surprising. In its Initial Statement in Support, the City of New York argued that, "(i)f considered individually, certain provisions may appear biased in favor of one party or a group of parties. However, such a view of the document is inappropriate. The provisions must be considered conjunctively, with each supporting the others."[16] UIU acknowledges that the JP contains numerous provisions regarding many different issues. However, the cost allocation aspects of the JP are of great importance, and they are heavily biased in favor of large customers. There are no other provisions in the JP that "work conjunctively" to offset or ameliorate this bias. Nor are there any special provisions in the JP that specifically benefit residential and small usage customers such that, taken as a whole, the JP benefits these customers in a way that is proportional to the likely outcome of a fully litigated proceeding. UIU therefore respectfully urges the Commission to modify the terms of the JP consistent with UIU's recommendations as described in its Initial Filing and as further discussed herein.

Although UIU made its objections to the JP clear to other parties long before the deadline for submitting statements on the JP, most other parties have chosen not to respond in detail to those objections, or to address the concerns set forth in UIU's initial prefiled testimony in their statements in support of the JP.[17] As a result, there is little of substance for UIU to discuss in this reply statement. UIU understands the September 28, 2016 ruling in this proceeding states "a ruling on post-hearing submissions, including the need for such, will be made at the conclusion

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Center's Statement in Support of the Joint Proposal 8 note 16 (filed October 13, 2016) ("Pace Initial Statement") (noting Pace does not sign on to sections G.1. and H.1. of the JP which discuss the ECOS studies and revenue allocation process).

[14] *See e.g.*, NYPA Initial Statement at 3 ("NYPA believes that the 2013 ECOS developed a fair result for the NYPA customers.") Initial Statement of CPA at 4 ("The electric rate stability provided by the JP is another matter of great importance to our members, as is the realignment of rates to more accurately reflect costs. As in past cases, the quantification of the cost of service was a contentious issue in this case. The JP resolves these issues, and allows significant mitigation for several customer classes, without abandoning the principles of cost-based rates.") *See also infra* notes 29-30, and accompanying text, discussing the City's advocacy for large customers on revenue allocation issues.

[15] *See* UIU Initial Testimony at 25 and 32-33.

[16] *See* City Initial Statement at 6.

[17] UIU notes for example the City of New York offered limited discussion of ECOS issues but reserved the right to respond to UIU on reply. *See* City Initial Statement at 5 note 6.

of the evidentiary hearing." Depending on the scope and nature of the reply statements and rebuttal testimony submitted simultaneously with this filing, UIU may respectfully request the opportunity to offer brief surrebuttal testimony, if such testimony is necessary or required.

DISCUSSION

1. The Company and Parties in Support of the Joint Proposal Have Not Shown Why Using the Company's Electric and Gas ECOS Studies As a Basis for Revenue Allocation in this Proceeding is in the Public Interest

a. Company's Statement Errs in Describing Party Support for its ECOS Methodology and Revenue Allocation

UIU objects to the Company's characterization that all but two parties accepted its electric ECOS study and that all parties but UIU accepted its gas ECOS study "for the purposes of setting rates in this proceeding."[18] First, UIU does not believe the number of parties supporting a given portion of a JP, especially the revenue allocation, can indicate whether a provision is just and reasonable.[19] In addition, the Company's vague language gives the false and misleading impression that nearly all other parties support the Company's ECOS studies. This is not accurate. There are many parties who have not signed the JP[20] – and there is absolutely no basis for claiming those parties have "accepted" the Company's ECOS studies, or any other provisions of the JP. PULP, which the Company mistakenly stated supported its ECOS

[18] Company Initial Statement on the JP at 35 (discussing support for the electric ECOS study) and 40 (discussing support for the gas ECOS study).

[19] *See* UIU Initial Statement at 47 "Proponents of the JP's revenue allocations may argue that the number of parties supporting the JP's revenue allocations outnumber those parties who oppose them, which would have favored the proponents' chances of succeeding on these issues were the case to have been fully litigated. This argument would fail for several reasons. First, the number of parties does not correspond to the factual or legal merit of their shared position. Second, many proponents share overlapping – or identical – interests with respect to revenue allocation. One such overlapping interest is the interest of large energy consumers, who make up a minority of the Company's ratepayers. The convergence of revenue-allocation interests among JP proponents undermines the implication that they are "correct" in proportion to their numbers." In addition UIU notes "the fact that more parties support than oppose the JP's revenue allocations is not evidence of a meeting of the minds. Rather, as Pace's signature page observes, the JP adopts the Company's ECOS studies "without modification to any of the allocations," indicating that it does not reflect agreement among normally adversarial parties with respect to ECOS or revenue allocation. Indeed, as discussed above, the JP reflects no compromise on this central issue." UIU Initial Statement at 49.

[20] UIU notes of the approximately 35 active parties in this case, 15 parties did not sign the JP. *See* UIU Initial Statement at 3. In addition of the 20 parties who did sign the JP, only 14 filed an Initial Statement of Support.

methodologies,[21] in fact expressly noted its concerns with the Company's ECOS methodologies as a reason it could not sign on to the JP.[22]

Further, as some parties may have signed the JP without necessarily focusing on the ECOS studies,[23] only signatories that expressly note their support for the electric and/or gas ECOS study can be said to have "accepted" or endorsed the Company's studies. In fact, only eight of the twenty signatory parties submitted an Initial Statement in Support that addressed these studies. One such signatory party, Pace, explicitly noted it had reservations concerning the Company's electric and gas ECOS methodologies and specifically did not endorse that portion of the JP.[24] The remaining seven parties indicated they supported a revenue allocation based on the electric ECOS study, only offering self-serving conclusory statements concerning the study itself.[25] Only three parties indicated they supported a revenue allocation based on the gas ECOS study,[26] while three other parties expressly noted concern with the gas ECOS study.[27] As discussed below, despite the Company's claims, none of the parties supporting the Company's ECOS studies focus on representing small energy usage customers on revenue allocation issues.

While the Company cites to the support of the City of New York as a party representing the interests of residential and low income customers,[28] in reality, with respect to ECOS and revenue allocation issues, the City of New York has focused its advocacy efforts on behalf of its own interest as a large customer and on behalf of other large customers. This focus is apparent from its choice of witnesses and the tenor of their testimony concerning the revenue allocation and ECOS issues in recent rate cases.[29] For example, in its initial statement, the City of New York offered the conclusory statement that use of the Company's ECOS studies for revenue

[21] *See* Company Initial Statement at 34.
[22] *See* PULP Initial Statement at 2.
[23] UIU notes intervening parties may have discrete and limited interests in the case and references the fact that only eight of the twenty signatory parties submitted an initial Statement in Support on the JP that addressed the ECOS studies.
[24] Pace Initial Statement at 8 note 16.
[25] These seven parties are the Company, Staff, NYECC, NYPA, City, MTA, and TWC. *See supra* note 13.
[26] Company Initial Statement at 38-40; City Initial Statement at 10; Staff Initial Statement at 44-45
[27] PULP Initial Statement at 2; Pace Initial Statement at 8 note 16; UIU Initial Statement at 40-43
[28] *See* Con Ed Initial Statement at 34 and 40.
[29] Both Mr. Stephens and Mr. Gorman focused their prefiled direct testimony on issues of particular concern to large usage customers, and they said little or nothing about issues of particular concern to, or impacts on, residential and small commercial customers. Both witnesses work for Brubaker & Associates, Inc. which works primarily for large commercial and industrial customers. *See* http://www.consultbai.com/representative-clients.html

allocation purposes was "just reasonable and in customers' interests"[30] but it did not support this claim nor did it offer any response to the extensive, detailed prefiled evidence submitted by UIU that demonstrated this is not true with respect to residential and small customers.

b. Company and Party Statements Discuss Why the Commission Could Adopt the Company's Electric and Gas ECOS Methodologies, Not Why It Should Adopt the Methodologies for Revenue Allocation Purposes

As noted above, few parties to this proceeding offered much discussion on the Company's electric and gas ECOS methodologies, and the parties that did discuss these methodologies offered only conclusory statements or reasons why the Commission *could* adopt them, not why it *should* adopt them. For example, to support their choice of an electric ECOS methodology, the Company and these parties relied on a cursory survey of methodologies adopted in prior rate plans by other New York State electric utilities and on suggestions from the 1992 Electric Utility Cost Allocation Manual by the National Association of Regulatory Utility Commissions ("Electric NARUC Manual").[31] However, these references do not illustrate why the flaws with the ECOS studies identified in this record should be ignored, why this methodology adequately reflects cost causation, or why it should be adopted in the context of Con Edison's service territory. As expressed above, the material presented by the Company and these parties is not sufficient to show why the Commission should adopt a particular ECOS methodology.

Not only have the Company and signatory parties failed to make an affirmative case for these methodologies, they have also failed to rebut the many flaws UIU has identified in these ECOS studies and the "reasonable, logical, and equitable" alternative proposals UIU has offered in this proceeding. For example, the Company includes a table comparing UIU's and the Company's "ECOS Deficiency/Surplus" results to support its conclusory accusation that the "stark difference" in SC1 or SC9 results are evidence of UIU's bias in favor of residential and small commercial customers but this comparison does not show a bias – it merely quantifies the

[30] *See* City Initial Statement at 10

[31] While the Company and other parties sometimes refer to the 1992 NARUC Electric Manual as if it instructs electric utilities precisely how to allocate distribution costs. UIU notes it was only intended to be a primer on these issues and was not created to advocate for any particular method. The manual is now 24 years old and in 2000, the Energy Foundation contracted with the Regulatory Assistance Project to prepare a review of rate allocation and rate design for distribution services. This document "Charging for Distribution Services: Issues in Rate Design," cited as UIU Exhibit___(UERP-JP-10) in UIU's Electric Rate Panel Direct Testimony, provides a more recent discussion of distribution cost allocation which is supportive of positions taken by UIU.

differences in study results.[32] The differences are actually attributable to flaws in the Company's ECOS studies, because they systematically over-allocate costs to small customers, as explained in detail in UIU's filings in this proceeding. Finally, UIU notes that an ECOS study should only be used as a guide for revenue allocation,[33] not as a document mandating specific action. Nevertheless, even if the Company's studies were not so deeply flawed, it would be inappropriate to give so little weight to rate continuity, the affordability crisis, customer impacts, and other factors.

i. Electric ECOS Study and Revenue Allocation

In its prefiled direct testimony, UIU's Electric Rates Panel identified a wide variety of flaws with the Company's use of a minimum system methodology and other aspects of its electric ECOS study[34] that the parties supporting the JP have failed to adequately respond to in their prefiled rebuttal testimony.[35] In the Company's Initial Statement in Support of a JP that fails to correct any of these problems with its ECOS study, the Company again failed to respond to these arguments.[36] Thus, the Company has not met its burden to show why the revenue allocation proposed in the JP leads to just and reasonable rates, and UIU urges the Commission to reject this unreasonable and inequitable allocation process.

The failure to respond on a point-by-point basis to the many flaws identified by UIU is particularly striking because the parties supporting the JP have had several months to review the

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[32] Contrary to Con Edison complaints, UIU did not recommend certain approaches that would have allocated less costs to smaller customers, such as classifying all distribution plant as demand related or utilizing a demand allocator that weighted larger classes ICMD by 50%.

[33] *See* UIU Initial Testimony at 7-23.

[34] *See e.g.*, Cases 16-E-0060 *et al*., UIU Electric Rate Panel (revised) Direct Testimony at 15-18 (June 2, 2016) (discussing the Company's flaw of using a hypothetical "minimum system" that consists of much-larger-than-minimum-sized equipment)

[35] *See e.g.*, Company DAC Panel prefiled rebuttal testimony at 24-25 where the Company did not adequately defend the Company's choice to use a "minimum" conductor cost that is three times more expensive than the actual embedded costs of the conductor in the Company's secondary system. *See* UIU Initial Statement at 31-33 which discusses this issue in detail.

[36] *See* Company Initial Statement at 33 which only briefly addresses UIU arguments with conclusory statements such as "The Company's rebuttal testimony noted that the range of sizes selected in determining the minimum system component of secondary cable and transformers is representative of the equipment installed and in use in the system and represents a balanced approach that does not bias the customer component to very old or very new equipment. UIU has not shown that there is a need to change this methodology, nor have there been any changed circumstances that require changes to this methodology." UIU notes that in this rebuttal testimony the Company states if it were to select the minimum sized primary conductor currently being installed, 4AWG wire, the customer component of underground lines would increase 250% and result in a negative demand component that "defies a minimum system methodology." This Company statement only further illustrates UIU's arguments that the minimum system is not a useful methodology. *See* Company DAC Panel prefiled Rebuttal Testimony at 25-26.

evidence offered by UIU explaining these problems. For example, there was no evidence offered that the customer/demand split is based upon an accurate analysis of the minimum system components required to reach every customer. Instead, parties offered conclusory statements of agreement with Con Edison's cost allocation methodologies based on alleged "regulatory precedent"[37] without providing a detailed examination of cost causation or an analysis of the flawed assumptions and calculations identified in UIU's prefiled direct testimony.

ii. Gas ECOS Study and Revenue Allocation

A similar situation exists with respect to the Gas ECOS studies. In addition to not offering reasons why the Commission should adopt its gas ECOS study to the exclusion of any of the other gas ECOS studies that are before the Commission,[38] Con Edison offers just a limited, factually incorrect, and wholly inadequate defense of the flaws UIU has identified in its gas ECOS methodology. [39] For example, one of the Company's attempts at a defense is based on a factual error. Company claims that UIU's recommendation for classifying distribution mains in FERC Account 376 as 100% demand related is contrary to the 1989 Gas Distribution Rate Design Manual by National Association of Regulatory Utility Commissioners ("NARUC Gas Manual"),[40] but this is not true. In fact, the NARUC Gas Manual specifically recognizes the Minimum System approach (used by the Company) is controversial, and it points to the 100% demand approach (used by UIU's witnesses) as an alternative – one that is not described as

[37] *See* Staff Initial Statement at 33 ("As noted in its testimony, Staff agreed with Con Edison's costs allocation methodologies, as they follow established costs principles that are consistent and have evolved with regulatory precedent over time.") This is not an adequate response to the evidence in this proceeding demonstrating serious flaws in these methodologies, nor is it sufficient to meet the JP proponents' burden of proving that the proposed rates are just and reasonable, or that a further shift of $49.1 million from large to small customers is in the public interest.

[38] *See* Company Initial Statement at 39. Company states ("Like the Company's electric ECOS study, the gas ECOS study was performed in accordance with long-standing Commission practice. Moreover, the underlying bases for the ECOS study are reasonable, logical and equitable.") UIU notes both its prefiled testimony, Initial Statement and Direct Testimony on the JP offer examples of Commission decisions which adopt 100% demand for gas distribution mains. *See e.g.,* UIU Initial Statement at 43; Cases 14-E-0493 *et al*., Order Adopting Terms of Joint Proposal and Establishing Electric Rate Plan, Attachment A Joint Proposal 45 (October 15, 2015). In addition, UIU has extensively explained in its filings in this proceeding why the Company's allocation is not reasonable, logical or equitable.

[39] *See* Company Initial Statement at 39-40. Company's argument that UIU's recommendation is contrary to its testimony in a proceeding three years ago (13-G-0031), is both not relevant to determining if adopting such a methodology would be in the public interest and a mischaracterization of facts.

[40] Company Initial Statement at 39 ("UIU contends that distribution main costs should be classified as entirely demand related. This position is contrary to the NARUC Gas Distribution Rate Design Manual that supports Company's methodology of including a portion of distribution main costs in the customer component.") UIU notes the Company also incorrectly asserted this argument in their prefiled rebuttal testimony. *See* Company Gas Rates Panel prefiled Rebuttal Testimony at 5.

"controversial."[41] Company makes another factual error where it states that "all parties except UIU" accepted the Company's gas ECOS. While several parties accepted the electric ECOS study, most took no position on the gas ECOS study.[42] Finally, while the Company notes its Gas Rate Panel will enter its initial and rebuttal testimony into evidence at the hearing to "demonstrate that UIU's ECOS study is inappropriate," UIU notes the Company barely explains and defends (for the first time) its methodological choices in its rebuttal testimony, and utterly fails to respond to most of the criticisms identified in UIU's critique of the Company's methodology. [43]

2. The JP Fails to Address AMI Cost Recovery Issues As the Commission Had Instructed and Adopting a JP Without this Determination is Not in the Public Interest

The Commission asked parties to determine AMI cost recovery issues in rate case proceedings,[44] yet neither the JP nor the Company's Initial Statement explicitly addresses this $1.285 billion issue. As UIU noted in its initial statement, "the JP does not expressly describe how these AMI costs would be allocated among customer classes"[45] and "AMI's many novel applications place it further outside conventional conceptions of utility infrastructure and cost recovery."[46]

While several parties offer general support for AMI and the benefits it may bring to various customer classes,[47] none of the parties adequately address UIU's concerns that under the JP these benefits will largely flow to large customers while the costs will largely be borne by small

[41] *See* NARUC Manual at 22 ("A portion of the costs associated with the distribution system may be included as customer costs. However, the inclusion of such costs can be controversial.")
[42] *See e.g.* MTA and NYPA Initial Statements which explicitly support the electric ECOS study but do not discuss the gas ECOS study.
[43] *See* Company Gas Rates Panel Rebuttal Testimony at 4-9. One such inadequate defense the Company offered was the same mischaracterization of the NARUC Gas Manual the Company offered in its Initial Statement and that UIU has refuted. *See supra* notes 40-41 and accompanying text. UIU further notes the Company's rebuttal testimony ignored or glossed over most of the evidence UIU provided regarding the flaws with the Company's gas ECOS methodology. *See e.g.*, Cases 16-G-0061 *et al.*, UIU Gas Rate Panel Direct Testimony (May 27, 2016) page 14 lines 22-28; page 15 lines 3-6; page 16 lines 14-17; page 17 lines 4-16; page 18 lines 1-6; page 27 lines 6-8; page 28 lines 6-7 and 17-21; page 29 lines 1-3 and 22-26; page 31 lines 3-9; page 32 lines 15-19; page 33 lines 3-16; page 34 lines 10-12; page 35 lines 16-20; page 36 lines 18-23; page 37 lines 25-30; page 38 lines 3-9.
[44] *See* Case 15-E-0050, Order Approving Advanced Metering Infrastructure Business Plan Subject to Conditions 49 (issued March 17, 2016).
[45] UIU Initial Statement at 11.
[46] UIU Initial Statement at 13.
[47] *See e.g.* City initial Statement at 13; Staff Initial Statement at 20-22, 26; EDF Initial Statement 3-5.

customers.[48] In fact, the Company offers no discussion of the AMI revenue requirement allocation whatsoever.[49]

Some parties such as Pace note the JP includes a functionalization structure that "will allow the Company to better track REV-related costs and benefits (including AMI) so as to inform potential future rate mechanisms, such as Earnings Adjustment Mechanisms, Returns on Equity, and Rate Allocation."[50] However, a functionalization structure that could potentially inform future revenue allocation processes will not help current Con Edison customers who will bear a disproportionate share of the cost of AMI if the JP is adopted in this proceeding. The parties have long known that this mismatch between costs and benefits is one of the major reasons why UIU is so strongly opposed to this JP, [51] and they are fully aware of UIU's proposed solution - yet they chose to ignore this issue in their Initial Statements in Support of the JP.

UIU has recommended that AMI costs be allocated by energy usage until a future case in which Con Edison provides a full analysis of AMI benefits.[52] As discussed in UIU's Initial Statement, this recommendation is consistent with the principles of cost causation because "AMI's projected benefits are the reason it is being built at all,"[53] and "larger customers are more likely than small customers to have the resources and capabilities to understand and utilize the rich usage data that AMI will provide."[54] Further, to be consistent with basic principles of fairness and cost-causation, the AMI revenue requirement should be allocated to customers in a manner that reflects the reasons why AMI costs are being incurred, i.e. the benefits expected. No party has denied that most AMI benefits will accrue to larger customers, rather than smaller customers. Yet, the JP will require smaller customers to bear a disproportionate share of the AMI revenue requirement.

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[48] UIU notes Pace does acknowledge the issue and opines that the functionalization structure will allow for improved rate allocation in the future. *See* Pace Initial Statement at 6.

[49] UIU recognizes the Company discusses AMI net plant reconciliation and AMI metrics to "to monitor the progress of AMI and its benefits, including benefits to system operation and to outage management, reduced billing errors and increased customer awareness." Company Initial Statement at 58.

[50] *See* Pace Initial Statement at 6.

[51] *See* UIU Electric Rate Panel prefiled (revised) Direct Testimony 24-30 (June 2, 2016).

[52] *See* UIU Initial Statement at 19 "Because energy represents the best available proxy of AMI benefits in this proceeding (and is a far better proxy than the JP's implicit allocation), UIU recommends that energy serve as the basis of AMI cost allocations unless and until a more detailed accounting of benefit by customer type becomes available."

[53] UIU Initial Statement at 19.

[54] UIU Initial Statement at 18.

CONCLUSION

In its Initial Statement, UIU asserted the JP failed to properly address the allocation of revenues stating "(t)he JP would allocate rate increases among the Company's customers according to a scheme that is neither just, reasonable, nor in the public interest."[55] The signatory parties' initial statements fail to show why the Commission should adopt the JP's revenue allocation and they fail to rebut the many flaws UIU has identified in the ECOS studies and the allocation of AMI costs. This silence provides further proof that the JP is not in the public interest and does not satisfy the Commission's Settlement Guidelines. Additionally, while UIU continues to note an ECOS study alone should not determine revenue allocation,[56] UIU has offered the Commission alternative ECOS studies which provide a "logical, reasonable, and equitable" baseline for the Commission's use in determining a more appropriate revenue allocation. UIU therefore urges the Commission to modify the JP's ECOS and revenue allocation proposals consistent with UIU's recommendations as described herein and in UIU's Initial Filing in this proceeding.

Respectfully submitted,

s/ Kathleen O'Hare

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[55] UIU Initial Statement at 49.
[56] *See supra* note 19 at 5.