STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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
CASE 15-E-0050 –	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-0196 –	Tariff filing by Consolidated Edison Company of New York, Inc. to revise General Rule 20 Standby Service contained in its electric tariff schedules, P.S.C. Nos. 10 and 12.

NEW YORK STATE DEPARTMENT OF PUBLIC SERVICE STAFF
STATEMENT IN REPLY TO OPPOSITION

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INTRODUCTION

This Statement In Reply To Opposition is filed by Department of Public Service Staff (Staff) in response to the following: 1) Department of State, Utility Intervention Unit (Unit) opposition to the Electric and Gas Revenue Allocations and Rate Design set forth in Sections G and H of the Joint Proposal;[1] 2) New York Independent Contractors Alliance (NYICA) opposition to the revenue requirements for the Joint Proposal's three year Electric and Gas Rate Plans (Rate Plans);[2] 3) Intervenors Energy Spectrum, RiverBay Corporation and Great Eastern Energy (collectively referred to as "Great Eastern Energy")[3] opposition to the Reliability Credit (Section G.6.c of the Joint Proposal) extension of measurement period from June 15th – September 15 to June 1st – September 30th, as well as the extension of daily measured hours from 10 am - 10 pm to 8 am - 10 pm;[4] and 4) the City of New York (City or NYC) opposition to the contribution by the New York Power Authority (NYPA) to fund out-come based Earning Adjustment Mechanisms (EAMs).[5]

REPLY TO OPPOSITION

I) UIU Revenue Allocation Opposition[6]

In its Statement on the Joint Proposal, UIU raises three issues on the basis of which it opposes the portions of the Joint Proposal: 1) the allocation of revenues under the Joint Proposal is based on flawed embedded cost of service (ECOS) studies performed by Con Edison; 2) the revenue allocations proposed in the Joint Proposal would shift costs onto smaller customers,

1 UIU Testimony of UIU Gas Rate Panel and UIU Electric Rate Panel dated October 13, 2016.

2 NYICA Testimony of James Kilkenny.

3 Energy Spectrum is a demand response provider serving the New York City metropolitan area; RiverBay Corporation, known as "Co-op" City is a 60,000 resident cooperative in Northeast Bronx; and, Great Eastern Energy is a mid-size regional energy services company (ESCO).

4 Great Eastern Energy Testimony of Ronald G. Lukas and David Ahrens.

5 City Statement in Support of Joint Proposal, p.12.

6 UIU attempts to imply that fifteen parties did not support the Joint Proposal because they were not a signatory party. UIU Statement on Joint Proposal (UIU Statement), p. 3. This statement is disingenuous. These parties did not oppose the Joint Proposal. Only the parties indicated in this Reply Statement opposed the Joint Proposal on discreet issues. This is self-evident by UIU's Statement title.

primarily residential and small commercial; and 3) the Joint Proposal does not satisfy the Commission's Settlement Guidelines. On this basis, UIU opposes the revenue allocations and corresponding rate changes provided for in the Joint Proposal.

As explained in Staff's Statement in Support, the Joint Proposal meets the requirements of the Commission's Settlement Guidelines. The Joint Proposal is consistent with the Commission's goals and policies, compares favorably with the likely result of a litigated case, fairly balances the interests of ratepayers and investors, and provides the Commission with a rational basis for its decision. The issues raised by UIU, which are discussed in detail below, should present no barrier to the Commission adopting the terms of the Joint Proposal.

1. The Electric and Gas ECOS studies upon which the Joint Proposal relies properly use the minimum system method to classify the costs of the distribution system into demand and customer components.

In its Statement, UIU disagrees with the minimum system methodology, on which the Company's Electric and Gas ECOS studies are based, arguing that this method over-allocates cost responsibility to small customers. With respect to the Electric ECOS study, UIU asserts that the minimum system methodology ignores the demand-carrying capacity of the minimum system, mischaracterizing it as a customer-related cost, which represent costs of distribution plant for which small customers are required to pay but do not use.

UIU argues that the Company has failed to justify expanding the minimum system methodology to the primary distribution system (i.e. FERC Accounts 364 - poles, towers and fixtures, 365 - overhead conductors, 366 - underground conduit, and 367 - underground conductors and devices), noting that, in the past, the Company's Electric ECOS studies have not classified a portion of the primary distribution system costs as customer-related. As explained in the testimony of the Staff Electric and Gas Rates Panel, the classification of a portion of primary electric distribution plant as customer-related is consistent with the National Association of Regulatory Utility Commissioners Electric Utility Cost Allocation Manual (NARUC Electric Manual), which states that, when classifying distribution-related costs, only the demand and customer components need be considered because there is no energy component of such costs.[7] The NARUC Electric Manual further specifies provides for a customer component in the minimum system analysis for each of the distribution plant accounts. For example, on page 93,

[7] Exhibit__(SEGRP-1).

for Account 365 – Overhead Conductors and Devices, the NARUC Electric Manual provides guidelines for "developing the customer component" for these accounts. The same is true for the other three FERC accounts that, according to UIU, should not be assigned a customer component. UIU's arguments contradict the guidelines provided in the NARUC Electric Manual and, therefore, should be rejected.

In its Statement, UIU also argues that the Company's Electric ECOS study is flawed because it "estimates a minimum secondary system that is actually much larger than minimum." Specifically, UIU takes issue with the costs of the conductors and transformers used in the minimum system analysis, suggesting modifications to the minimum system calculation for these particular types of equipment. As discussed in the Staff Electric and Gas Rates Panel's testimony, however, the modifications UIU recommends are inappropriate and should be rejected.[8] For example, UIU recommends that transformers be treated as entirely demand-related on the basis that transformers are installed to meet demand and, therefore, are not related to the number of customers on Con Edison's system. This argument, however, defies logic because the number of transformers on an electric utility's system is a function of the number of customers on that system. For this reason, UIU's argument that the Electric ECOS study is flawed with respect to the secondary distribution system should be rejected.

UIU further argues that the Order Adopting a Ratemaking and Utility Revenue Model Policy Framework, issued May 20, 2016, in Case 14-M-0101 (Track Two Order) appears to support UIU's position that much of the distribution plant that Con Edison classifies as customer-related should be considered demand-related because it varies with usage, this argument is without merit. This argument, however, reflects a misinterpretation of the Track Two Order and, more importantly, underscores UIU's fundamental misunderstanding of the classification of distribution system costs. Appendix A of the Track Two Order states that fixed charges should only be used to recover those costs that do not vary with demand or usage. The minimum system analysis identified a portion of primary and secondary distribution system costs that do not vary with either demand or usage; rather, these costs are attributable to the number of customers on Con Edison's system and, therefore, properly classified as customer-related costs. For these reasons, UIU's claim that the Track Two Order supports its classification of distribution plant should be rejected.

[8] Staff Electric and Gas Rates Panel, Reply, pp. 5-8.

Lastly, with respect to the Electric ECOS study, UIU argues that the D08 allocator, which is used to allocate the demand portion of distribution costs to the service classifications, does not reflect actual system planning considerations and, therefore, disproportionately shifts costs to smaller customers. Specifically, UIU recommends to base the D08 allocator solely on the Non-Coincident Peak Demand (NCP).

The existing allocator blends the service classes' NCP with the Individual Customer Maximum Demands (ICMD). For SC 1, the NCP is weighted 75% and the ICMD is weighted 25%; for all other service classes, the weight is 50% NCP and 50% ICMD. UIU's recommendation contradicts the NARUC Electric Manual, which states that "customer-class NCPs and ICMDs are the load characteristics that are normally used to allocate the demand component of distribution facilities."[9] The Manual further provides that secondary facilities that are closer to the customer have a much lower load diversity and, therefore, are normally allocated to according to the IMCD.[10] Moreover, as a result of the 13-E-0030 rate case, Con Edison conducted a load diversity study to address the issue of cost-of-service allocation for low tension costs. The results of that study confirmed that the D08 allocator's existing split of 75% NCP and 25% ICMD is reasonable. UIU has provided no studies that contradict or refute the findings in Con Edison's load diversity study. For the reasons discussed herein, UIU's recommendation for a modification to the D08 allocator should be rejected.

Lastly, UIU argues (on page 41) that the Gas ECOS study is flawed, arguing that the results of the minimum system analysis are unreliable because the Company based its gas minimum system on pipes "that are significantly more costly than smaller pipes currently embedded in its system." In addition, UIU specifically took exception with the classification of Account 376 – Distribution Mains as 54% demand-related and 46% customer-related. UIU claims that no portion of the cost of distribution mains should be treated as customer-related. In support of its claim, UIU provided two ECOS studies, one that allocated mains in the one hour NCP and another that allocated mains on design day peak demand.

With respect to the minimum system analysis, UIU maintains that the minimum system analysis should have used the installed costs of 1.50 inch steel mains and 2.00 inch plastic mains, rather than 2.00 inch steels mains and 1.25 inch plastic mains, which would have resulted in a

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[9] NARUC Electric Manual, p. 97.

[10] Id.

customer component of 18%, rather than the 46% customer component resulting from the Company's Gas ECOS study. As explained in Staff's testimony, UIU's approach, however, is flawed because it is based solely on the cost of the pipe and fails to account for the fact that there is very little 1.50 inch steel main on Con Edison's system; in fact, 1.5 inch steel pipe constitutes less than 0.5% of the nearly 1.2 million linear feet of steel distribution main with a diameter of 2.0 inches or less.

The Company's Electric and Gas ECOS studies, as relied upon by the Joint Proposal, properly use the minimum system methodology to classify costs by demand and customer component. UIU's recommendations related to the respective ECOS studies seek to classify costs as demand-related in an effort to shift costs from smaller to larger Con Edison customers. The recommendations, however, lack support and, at times, contradict the guiding principles established in the respective NARUC Manuals. As explained herein, the classification of costs through the Company's ECOS studies is consistent with the principles established in the NARUC Manuals. That UIU suggests that costs are being unfairly apportioned to residential and small commercial customers is not only offensive, but is unsupported and wholly without merit. For the reasons discussed herein, UIU's recommendations should be rejected.

2. <u>The revenue allocation provisions properly apportion cost responsibility among Con Edison's service classifications.</u>

UIU claims that the Joint Proposal should not allocate revenues among service classifications based solely on the results of the Company's Electric and Gas ECOS studies; rather, UIU recommends (on pages 8, 21-23) that the Commission modify the rate allocations to account for the "ongoing unaffordability crisis among the Company's residential electric and gas customers." UIU, however, fails to offer any specific modifications to the rate allocations other than shifting costs away from the residential and small commercial customers.

As an initial matter, it should be noted that UIU provides no witness to support its statements addressing the "unaffordability crisis" in Con Edison's service territory. Instead, UIU relies on testimony from a PULP witness, which asserts, among other things, that residential customers in Con Edison's service territory are subject to 75% more service termination notices than in 2005. UIU's claim that the Joint Proposal fails to acknowledge such hardships is incorrect. Specifically, the Joint Proposal provides a strong incentive for reduced terminations through the Uncollectible/Residential Service Termination Positive Incentive. Furthermore, UIU's claim that residential and small commercial customers are receiving "disproportionate rate increases," taken in isolation, fails to acknowledge the indicated results of the ECOS studies. The ECOS studies established that these classes are deficient relative to their cost of service. The fact remains that it is not possible to address these deficiencies without assigning an above average increase to these classes. Conversely, assigning these classes a system average increase would continue to result in intra class subsidies. The results of the electric allocation represent a 1.17 times the system-wide average for SC 1; SC 1 and 3 gas represent a 1.12 times the system average increase. These results are well within the Commission's historic practice of limiting class increases to 1.5 times the system average.

In addition, UIU recommends that advanced metering infrastructure (AMI) costs be llocated using a "value of service approach," wherein the costs would be allocated on the basis of the benefits provided by the AMI system. In these proceedings, UIU suggests that the revenue requirement associated with AMI should be allocated on the basis of energy because its proposed "value of service" principle can be closely approximated by energy usage.

As explained by the Staff Electric and Gas Rates Panel, this recommendation should be rejected because it is not consistent with the cost causation principle. The cost of a meter is customer-specific and, therefore, should be allocated based on cost causation. The Panel further notes that larger customers already have hourly meters; therefore, smaller customers without hourly meters will derive many of the expected benefits of AMI, such as reduced bills resulting from a more detailed understanding of usage, reduced distribution losses, and lower meter reading costs.[11] Moreover, the Panel notes that UIU's recommendation to allocate on the basis of benefits (or energy) does not comport with the Track Two Order, which provides that "rates should reflect cost causation."[12]

3. <u>The Joint Proposal satisfies the requirements of the Commission's Settlement Guidelines.</u>

Glaring among UIU's claims is the concept that Staff does not consider residential customers when negotiating Con Edison rate settlements.[13] UIU states, "Of the Parties to the instant proceedings, PULP and UIU are the only parties that focus on the interests of residential

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11 <u>Id.</u> at 14-15.

12 Track Two Order, Appendix A.

13 UIU Statement on Joint Proposal, p. 24.

customers." One could imply from this statement that UIU believes that Staff is blindly locked arm-in-arm with the large customers and/or their representatives. Nothing could be further from the truth. Staff's mission and objective is to ensure that rates are just and reasonable for all Con Edison customers, including, most assuredly, residential customers. One has only to glean over Sections L and N of the Joint Proposal to understand that residential customers, and in particular low income customers, are of great concern to Staff and the Department. In every rate proceeding, numerous Staff experts review and analyze consumer services and low income issues to ensure that the Company continues to perform better and follows Commission policy objectives. Staff does not sit idly by, but, rather, mandates that residential customers' interests are considered, vetted and protected.

Additionally, UIU claims that the Joint Proposal does not satisfy any of the criteria set forth in the Commission's Settlement Guidelines,[14] and therefore, the Joint Proposal is not in the public interest. This conclusion is self-serving because it is reached based on UIU's very own opposition, and even more so on its conclusion that it will ultimately prevail on the ECOS issue. Following through with UIU's logic would simply allow a party to oppose a term of the Joint Proposal and claim victory prior to any Commission determination to establish that the Settlement Guideline criteria were not satisfied. Also, when considering whether the Joint Proposal is in the public interest, the document should be considered as a whole, with each individual section providing support and balance to the others. As a whole, there can be no question that the Joint Proposal satisfies the public interest standard.

The Joint Proposal and the revenue allocations established therein are wholly consistent with the policies of the Commission and State. The Joint Proposal incorporates a number of Reforming the Energy Vision (REV) initiatives, including: earnings adjustment mechanisms (EAMs) related to system efficiency, energy efficiency, and distributed generation (DG) interconnections; improvements to electric standby rates; and investments in distributed system platform enabling technologies. Specifically, the Joint Proposal includes provisions that expand upon the existing energy efficiency programs and implement a system peak reduction program that includes an off-peak electric vehicle charging program. The Company is authorized to recover incremental costs associated with these programs, up to the budget included in the Proposal, and must demonstrate that the program costs are justified through a benefit cost

[14] UIU Statement on Joint Proposal, pp. 44-49.

analysis (BCA). The Joint Proposal implements the reliability credit directed in the Commission's Track Two Order. The Proposal also establishes a bill credit for SC 11 buy back customers and a standby/export rate pilot to encourage development of efficient distributed energy resources. Finally, the Joint Proposal includes EAMs for achievements associated with the incremental energy efficiency and system peak reduction programs; outcome-based metrics intended to increase system efficiency and reduce energy consumption; DG interconnections above 50 kW to 5 MW to reward the Company for applicant satisfaction and timely application processing; and an EAM related to customer awareness of AMI during the AMI deployment period.

Further, UIU admits that the Joint Proposal does not increase customer charges, except for certain gas SC-1 customers, and yet reaches this conclusion after a lengthy statement on how increases in fixed charges do not conform to Commission and State policies.[15] UIU's own admission defeats its claim.

UIU's claim that the Joint Proposal revenue allocation would not likely be the result if litigated is conclusory, self-serving and, at best, based on pure speculation. UIU again reached this conclusion based on its very own arguments. It should be noted that no other party opposed the Joint Proposal's electric or gas revenue allocation, including PULP,[16] the only other entity UIU suggested protected residential ratepayer interests. If litigated, to claim that UIU would likely prevail belies reality. The Company's ECOS study does not violate any established rules or guidelines, and reasonably allocates revenue to all service classifications.

The claim that the revenue allocation lacks a rational basis is incorrect. The Electric and Gas ECOS studies were presented by the Company and addressed by Staff's Electric and Gas Rates Panels. No other party, other than UIU, directly opposed the revenue allocation. The record is robust, particularly when considering the concurrently filed reply testimony of Staff's Electric and Gas Rates Panel, as well as the testimony and/or statements of the other Signatory Parties on this issue. There is in no uncertain terms a rational basis for the Joint Proposal revenue allocation.

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15 UIU Statement on Joint Proposal, p. 46.

16 Pace does voice its tepid non-support at fn.16, p. 8 of its Statement in Support of the Joint Proposal.

II) NYICA Revenue Requirement Opposition

NYICA opposes the revenue requirements established in the Joint Proposal by questioning the potential impact on Municipal Interference costs that allegedly result because of changes Con Edison made in awarding certain paving work under its Standard Terms and Conditions for construction contracts. The economic theme of NYICA's position is that by changing the Standard Terms and Conditions Con Edison has somehow decreased competitive bidding for municipal interference paving work, which thereby increases paving costs which are borne by ratepayers. In essence, that the change in Standard Terms and Conditions increases the revenue requirements for electric and gas to the detriment of ratepayers. Initially, NYICA has provided no proof or evidence which supporting its conclusion. NYICA's allegation is one based on speculation alone.

Further, Staff has investigated NYICA's claim and found that the Company's rate year forecasts were reasonable and in line with actual historic expenditures.[17] As NYICA indicated in their opposition, the first contracts under the new Terms and Conditions will be bid, awarded and executed by 2017. Thus, the forecasts are based on historic costs of 2011-2015 incurred prior to the change in the Standard Terms and Conditions.

Additionally, reconciliation mechanisms are in Joint Proposal that protect the ratepayer. In the event, the Company defers O&M costs under the reconciliation mechanism for future recovery provided for in the Joint Proposal, Staff reviews this deferral and could take issue with any deferral directly related to the change. Also, for electric capital expenditures, interference costs are subject to downward-only reconciliation and for gas capital expenditures, interference costs are subject to downward reconciliation with a limited opportunity upward reconciliation.[18]

Finally, to assure that customers will not be harmed in the future as a result of Con Edison's business decision to change its Standard Terms and Conditions for construction contracts, Staff recommends that the Commission require the Company to make a showing in its next electric and gas rate filings that its O&M and capital costs have not increased as a result of this change.[19]

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[17] Staff Joint Proposal and Policy Panel Testimony, pp. 5-6; pre-filed Staff Shared Services & Municipal Infrastructure Support Panel, pp. 13-14.

[18] Staff Joint Proposal and Policy Panel Testimony, pp. 6-7.

[19] Id.

III) Great Eastern Energy Reliability Credit Opposition[20]

As stated in Staff's Statement in Support of Joint Proposal,[21] Staff recommended that the Company institute a Reliability Credit mechanism based on customer net load as directed by the Commission in its Track Two Order.[22] Staff proposed that the Reliability Credit 1) be measured using a customer's net load over the course of two consecutive summer periods, 2) exclude up to three outage events of no more than five 24-hour periods per summer, and 3) be paid an amount that is equal to the difference between a customer's contract demand and the maximum demand recorded on the customer's revenue meter during the peak hours of the summer period (measurement period) multiplied by the contract demand charge rate per kilowatt (kW).[23] Staff recommended that the measurement period for the Reliability Credit should be 8 AM to 10 PM, Monday through Friday, from June 1 to September 30 of each year to coincide with definitions of peak hours and summer period already defined in the Company's tariff for demand-billed customers.[24] The Company agreed with Staff's recommendation concerning the measurement and time of day periods.[25]

The Joint Proposal implements the Reliability Credit as proposed by Staff, except that the measurement period for RY 1 will be the same as that used for Con Edison's current Performance Credit (i.e., 10 AM to 10 PM, Monday through Friday, excluding holidays, from June 15 through September 15), and the measurement period for RY 2 and 3 will be 8 AM to 10 PM, Monday through Friday, excluding holidays, from June 1 through September 30). The Joint Proposal adopts a phased-in approach whereby the Measurement Period for Rate Year 1 is set using the same Measurement Hours and definition of "Summer Period" currently-effective for the Performance Credit in order to allow current customers whom are used to optimizing their systems to earn the Performance Credit an additional year to get accustomed to the Measurement

[20] The opposition of Digital Energy Corp. is addressed by the Staff Joint Proposal and Policy Panel testimony.

[21] Staff Statement in Support, pp. 18-19.

[22] Staff Electric Rates Panel, Initial, p. 23; Track Two Order, p. 15.

[23] Staff Electric Rate Panel, Initial, p. 26

[24] Id. at 27

[25] Company Electric Rate Panel, Rebuttal, p. 49

Period which will be in effect for Rate Years 2 and 3. The Reliability Credit as agreed upon allows for three Outage events. Also, the Company in Case 15- E-0050 proposed that the Measurement Period for the Performance Credit be June 1st to September 30th. Through settlement negotiations in that proceeding the Measurement Period was agreed to be June 15th to September 15th.[26]

The Reliability Credit as designed provides a financial incentive for customers whom are able to reliably maintain the electric demand they take from Con Edison's distribution system below their respective Contract Demand amounts during two consecutive summer periods, thus allowing Con Edison to consider this the reliably-lowered amount of demand during system planning activities. The Reliability Credit, in dollars, is equal to the product of: (a) the Reliability Adjustment, defined as the customers Contract Demand amount, in kilowatts (kW), less the highest kW demand recorded on the meter(s) used for monthly billing, net of generation, during a defined Measurement Period; and, (b) the Delivery Service Contract Demand Charge, in dollars per kW, that is in effect on October 1 of each year in which the Reliability Credit is determined. Once determined, the Reliability Credit will be applied to the customer's successive 12 monthly bills, commencing in November of the year for which the Reliability Credit has been determined.

While the Reliability Credit and Performance Credit are roughly similar conceptually, the Performance Credit is based solely upon a customer's minimum generator output during the Measurement Period, whereas the Reliability Credit is technology-agnostic and rewards customers for any actions they may take to reduce demand on the Company's distribution system. While the Performance Credit Measurement Period was designed to not incentivize to customers for generating electricity, usually by burning fossil fuels, to the maximum extent possible, even during hours and days when a customer's load may be relatively low in comparison to its maximum demand, the Reliability Credit does not provide a this incentive because it provides only provides an incentive for customers to use their generation, or other demand-reducing equipment or actions, to minimize or exactly meet the customer's demand. That is, unlike the Performance Credit, there are no additional incentives under the Reliability

[26] Staff Joint Proposal and Policy Panel, p. 7-9.

Credit which would spur customers to operate their generating equipment uneconomically solely to earn the credit based on their generation.[27]

Concerning extending the Measurement Period by 30 days, Great Eastern Energy witness Mr. Ahrens (at pp. 5-8) appears to waffle from claiming that no credit would be received to a credit would be received, but not as great as under the Performance Credit. There should be no doubt that a customer who received and/or is currently receiving the Performance Credit, will be able to receive the Reliability Credit. Mr. Ahrens' assertion that the Measurement Period defined in the Joint Proposal would make earning Reliability Credits impossible for RiverBay and other large residential customers is factually incorrect. The Reliability Credit does not require that customers maintain any powerplant production, since the Reliability Credit is based on the maximum load on the customer's revenue meter, net of generation, allowing customers to earn Reliability Credits for any actions which reduce net load. Customers may even earn Reliability Credits for taking no actions whatsoever, provided that the maximum Daily As-Used Demand does not meet or exceed the customer's Contract Demand amount. RiverBay would, in fact, have been able to earn Reliability Credits for 2015 and 2016, respectively, if the Reliability Credit program per the Joint Proposal were applied to RiverBay's historical performance during these periods.[28]

Mr. Ahrens states that while RiverBay was able to earn Performance Credits for 2015 and 2016, respectively, "these credits would be lost because RiverBay needs to change over from cooling to heating by October 1st and also needs to shut down the system to clean, descale and disinfect the 5 cell cooling tower." However, it is Staff's understanding that RiverBay has operated its powerplant well into late September, demonstrating that it can, in fact, earn a Reliability Credit by managing its systems and judiciously using its allowed Outage Events.

Furthermore, the June 1 through September 30 measurement period acts as a superior incentive for eligible standby service customers to maintain low levels of demand, and as an insurance policy for all customers against changing climate in the long-term. It is well known that hotter weather drives customer demand and energy use, measured in the summer months in Cooling Degree Days (CDD). The number of CDD in a given time period is strongly related to the use of electricity for cooling purposes, such as air conditioning, which generally drives

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[27] Staff Joint Proposal and Policy Panel Testimony, p.

[28] Staff Joint Proposal and Policy Panel, pp. 18-19.

summer peak demands. The average number of CDD in both the month of June and the month of September has been steadily rising, and it is expected that this trend will continue.[29] Therefore, it will be increasingly important to control cooling loads during the months of June and September over the long term. The Measurement Period for Rate Years 2 and 3, as defined in the Joint Proposal, provides an incentive for standby service customers to manage their load during the entirety of June and September, whereas the Measurement Period as requested by Great Eastern Energy does not.

Staff believes that the Measurement Period as defined in the Joint Proposal is reasonable and superior to those proposed by Mr. Lucas, Mr. Ahrens, and Digital Energy.

IV) City Opposition to Outcome Based EAM Allocation

In its Statement in Support of the Joint Proposal, the City takes issue with the Joint Proposal provision that requires NYPA to fund outcome-based EAMs at its full class allocation of approximately 11%. The City argues that it is not appropriate for NYPA and its customers, including the City, to bear these costs because NYPA and its customers regularly undertake "outcome-based efforts to improve energy efficiency and system peak reduction" for which they receive no incentive payments notwithstanding that "[s]uch efforts benefit all Con Edison customers."

The City incorrectly asserts that the results achieved under the outcome-based EAMs contained in the Joint Proposal will be achieved as a direct consequence of the City's and other NYPA customers' initiatives. As envisioned in the Joint Proposal, however, the Company will not be able achieve the outcome-based EAMs solely through its existing programs and efforts. Indeed, it is the targets established through the collaborative that should take into consideration all programs currently being offered in the Company's service territory, including those undertaken by NYPA and its customers. In order for the Company to earn the outcome-based EAMs, Con Edison will have to attain savings beyond those achieved as a direct result of the utility-administered Energy Efficiency and Peak Load Reduction Programs established in the Joint Proposal. Therefore all customers, including the City and other NYPA customers, will realize benefits from such incremental savings. For these reasons, it is reasonable that NYPA and its customers contribute the full class allocation to fund the outcome-based EAMs.

[29] Staff Joint Proposal and Policy Panel, Exhibit__(SJPP-1).

Staff is disappointed that the City takes issue with contributing funds towards out-come based EAMs, particularly given that the City only takes issue with cost recovery and not the provision of the Joint Proposal that establishes the EAMs as part of the Rate Plan.[30] Staff emphasizes that the City is the only NYPA customer to take exception to this aspect of the Joint Proposal. The County of Westchester, the MTA and NYPA itself did not raise such concerns.

The City (on page 2) acknowledges that "[t]he JP represents a compromise package of concessions and agreements that address and reasonably resolve all of the principal issues of concern among the parties, as well as a number of ancillary issues." The City notes the broad-based support for the Joint Proposal and recommends that the Joint Proposal be found to be in the public interest and urges the Commission to adopt it. The City states that the Joint Proposal should be read as a comprehensive proposal that resolves numerous issues. The City claims that it would be inappropriate to individual consider certain provisions of the Joint Proposal as those provisions may appear biased in favor of certain parties. Rather the City argues, appropriately, that the Joint Proposal provisions should be considered conjunctively, with each supporting the other.

Despite the acknowledgments and arguments, the City is seeking an inappropriate second bite at the apple by singling out one particular provision of the Joint Proposal. Staff notes that the Joint Proposal includes numerous provisions that are favorable to the City and shift costs to other ratepayers. Illustrative examples include: a $4 million dollar climate change study, expansion of eligibility for discounted customer charge for devises that provide free wi-fi, and the elimination of fees for data necessary for building owners to comply with the City's Local Law 84. The City acknowledged that the EAMs included in the Joint Proposal are in "the public interest and should be adopted by the Commission." The City, however, is wrong on the merits and its attempt to be excluded from bearing the costs of the outcome-based EAMs should be rejected.

CONCLUSION

[30] The City's signature page indicated that the City supported the Joint Proposal with the two exceptions of Sections J.1.e and N.3.

The terms of the Joint Proposal entered into in these cases fully satisfy the Commission's Settlement Guidelines. Taken as a whole, the Commission can reasonably conclude that the terms of the Joint Proposal would fall within the potential result of litigated cases. The Joint Proposal continues and advances the Commission's goals and policies, while minimizing the potential economic impact of the recommended rate increases on ratepayers. The Joint Proposal sets the stage for the regulatory and policy objectives envisioned in the REV Track Two Order. Concerning the limited opposition to the Joint Proposal, the revenue allocation, revenue requirements, and Reliability Credit as agreed to should remain intact and should not be modified or rejected.

For all of the above reasons, Staff respectfully recommends that the terms of the Joint Proposal be found to be in the public interest and adopted by the Commission in their entirety.

Respectfully submitted,

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Dated: October 21, 2016
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