

November 16, 2016

**VIA ELECTRONIC FILING**

Hon. Kathleen H. Burgess  
Secretary to the Commission  
New York State Public Service Commission  
Agency Building 3  
Albany, NY 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.

Dear Secretary Burgess:

Please consider this letter as the Brief on behalf of Digital Energy Corp (“Digital”). Digital as a signatory to the Joint Proposal (“JP”) noted several exceptions in its statement of support for the JP. Digital noted its objection to the requirement that Standby Reliability Credit customers must install metering which will be used by Con Edison for internal analysis and reporting, and also the requirement changing the Standby Reliability Credit measurement period from June 15 – Sept 15 to June 1 - Sept 30. Please note that Digital uses the following acronyms throughout the document: Standby Performance Credit (“SPC”) and Standby Reliability Credit (“SRC”).

**Requirement to Install Generation Metering**

Digital raised the question of whether it is fair and reasonable for the JP to require a customer who wishes to participate in the new SRC program to pay for and install Commission approved revenue grade interval meters to measure generation output<sup>1</sup>, when the meter data will not be used by the SRC program. The Commission has ordered CHP customers to absorb the cost of metering CHP generation when receiving an exemption from standby rate, with the understanding that the data will be used by Con Edison to analyze DER interactions with the distribution system<sup>2</sup>. This ruling in Case 14-E-0488 was limited to CHP generation between 1 MW and 15 MW. As mentioned in other Digital filings, most of Digital’s CHP plants are under 1 MW. In addition, this issue in this proceeding highlights the need for the Commission’s guidance of an overall REV policy. This overall policy will hopefully address cost allocation for DER meters and sensors (not including the facility utility load meter) that will provide the needed visibility into DER operations and interactions with the distribution system.

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<sup>1</sup> Case 16-E-0060 Joint Proposal file September 20, 2016, Standby Reliability Credit eligibility requirements G.6.c (ii) 1,2, & 4.

<sup>2</sup> CASE 14-E-0488 - In the Matter of the Continuation of Standby Rate Exemptions, p. 14, 1<sup>st</sup> paragraph

It is clearly in the public interest to have this issue be resolved as early as possible to build a good infrastructure upon which REV may be developed. The questions to be answered are: How can the utilities get the data to meet their needs? How can the costs be fairly allocated amongst the rate base? The metering of DERs throughout the distribution system is large task that will continue to grow and will include not only CHP, but also the many installations and technologies under NY PSL 66-j<sup>3</sup> (net metering, Con Edison tariff Rider R), as well as any new technologies that may be developed in the future.

Digital therefore requests the Commission not impose the cost of metering DER generation under the SRC on the CHP plant owner, but instead order Con Edison to take on the cost of this metering until a statewide policy can be developed regarding what metering/sensors will be required to fully develop the potential of REV. If the Commission decides to leave the larger REV issue unresolved on how the utilities should measure DER performance characteristics, and decides to require CHP plants that wish to participate in the SRC program to have to pay for the additional metering, then Digital requests that the Commission follow the precedent set in 14-E-0488 and exempt CHP plants 1 MW and under.

### **Change in Reliability Credit Measurement Period**

Digital, Great Eastern Energy, Riverbay Corporation, and Energy Spectrum objected to certain provision of the SRC; and E Cubed Company, LLC and Joint Supporters reserved their support on the SRC program portion of the JP. Specifically all of the parties listed above agree that the change of the measurement period hours from June 15 – Sept 15<sup>4</sup> to the SRC program measurement hours (RY2 & RY3) of June 1 – Sept 30, is without foundation and justification. As shown in the transcript<sup>5</sup> of the evidentiary hearing held on November 2, 2016 the change in measurement period is not supported by reports or analysis. In fact, Con Edison states that they made the changes (increasing the number of hours per day and days in the measurement period) to the standby credit program measurement period because “they make sense”, and since nobody objected, why not (my commentary)<sup>6</sup>. This raises the question as to why Con Edison found the June 15 – Sept 15 period acceptable under the prior JP negotiated standby credit program (i.e. the SPC).

Furthermore, Con Edison was not aware of the potential policy conflict between this JP and existing housing law which requires certain residential facilities to provide heat by October 1<sup>7</sup>. These policies (assuming the proposed JP is approved without modification) would put certain residential facilities with DERs that require maintenance prior to switchover from cooling mode to heat mode, in an

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<sup>3</sup> This includes such generation technologies such as fuel cells up to 2 MW, Anaerobic Digesters up to 1 MW, solar or wind generation up to 2 MW, or micro-hydroelectric generation up to 2 MW

<sup>4</sup> Measurement period hours used in the SPC program and carried over to the SRC program in RY1

<sup>5</sup> Case 16-E-0060, Evidentiary Hearing November 2, 2016, Tr. pp. 136-149, 383-394

<sup>6</sup> Con Edison’s Reply Statement in Support of the JP, filed October 21, 2016, p. 11, 2<sup>nd</sup> para

<sup>7</sup> Case 16-E-0060, Evidentiary Hearing November 2, 2016, Tr. pp. 136-149, 383-394

untenable position. Either these customers could comply with the requirement to provide heat by October 1, and risk losing their standby credit (if they exceed their 5 exclusion days), or they could maximize their standby credit, not perform their maintenance by October 1, and then run the risk of being fined for failure to provide heat. Also, note that because of the performance ratchet, the effect in any one year of poor performance persists for 2 years.

In addition, Con Edison failed to perform even the most minimal outreach to SPC eligible customers to discuss the “new” standby credit program (i.e. the SRC). This failure to communicate can be seen as a partial cause for the objections to the SRC program. The total population of customers eligible for the standby credit program is not very large and would have taken a relatively small amount of effort. Digital understands there were approximately 36 standby credit eligible customers in 2015 of which 6 participated<sup>8</sup>, and somewhere around 42 standby credit eligible customers of which around 11 participated in 2016. Two of Digital’s clients participated in the 2016 SPC program.

It should be noted, the exact dates for the measurement period were not specified in either the Track Two Order<sup>9</sup> nor the Staff White Paper on Rate Making and Utility Business Models<sup>10</sup> (“White Paper”) (see Attachment A). The June 1 – September 30 measurement period appears to have been first mentioned in the January 30, 2015 Con Edison rate pane testimony<sup>11</sup>. On April 20, 2015, Con Edison filed a JP with a negotiated settlement in the rate cases 13-E-0030/15-E-0050 where the SPC was established with a measurement period of June 15-Sept 15. The change to the SRC, and the change to the June 1 - Sept 30 period in RY2 & RY3, will increase the measurement hours from 780 to 1204, a 54% increase. However, there was no corresponding adjustment to the number of exclusion periods/days.

Given the policy conflict involved with the proposed change in measurement hours to June 1 - Sept 30, the lack of any analysis done prior to the JP to determine a basis for changing the measurement hours from the prior JP (case 13-E-0030/15-E-0050), the attempt to use cooling degree days (only introduced in the Staff’s reply statement<sup>12</sup>) in a very late attempt to come up with a rationale for the measurement period change<sup>13</sup>, the lack of outreach to those who participate in the SPC program, the increase in measurement hours without a corresponding increase in exclusion day, leads one to conclude the measurement period requirements, as incorporated in the JP, would not be the results that would be considered within the range of reasonable results that would likely have arisen from a Commission decision in a litigated proceeding. Therefore Digital requests these provisions be modified by setting the

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<sup>8</sup> Standby Performance Credit Report 2015, Case 13-E-0030, filed on December 29, 2015, shows 6 customers participated in the 2015 SPC

<sup>9</sup> Order Adopting a Ratemaking and Utility Revenue Model Policy Framework, issued May 19, 2016, in Case 14-M-0101 (Track Two Order).

<sup>10</sup> Staff White Paper on Ratemaking and Utility Business Models July 28, 2015, Case 14-M-0101

<sup>11</sup> Con Edison Electric Rate Panel Direct Testimony, January 30, 2015, p. 53, 8 & 9

<sup>12</sup> Staff Reply Statement To Opposition, filed 10-21-16. p. 12

<sup>13</sup> Case 16-E-0060, Evidentiary Hearing November 2, 2016, Tr. pp. 136-149, 383-394

RY2 and RY3 measurement days/hours to the RY1 measurement days/hours of June 15 to September 15, 10 AM – 10 PM.

Thank you for your consideration of these matters.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jonathan Lilian". The signature is written in a cursive, flowing style.

Jonathan Lilian  
Vice President, Digital Energy Corp

**ATTACHMENT A - STANDBY PERFORMANCE CREDIT VS. STANDBY RELIABILITY CREDIT MATRIX**

NOTES /Color Coding/Abbreviations  
 X - indicates where requirement was specified  
 Indicates Requirement Differences  
 Indicates Specification the same for Both SPC & SRC  
 CD - Contract Demand

CHRONOLOGICAL ORDER 1 4 2 3

Requirements	Specified in JP dated April 20, 2015 for Rate Case 13-E-0030/15-E-0050 (Standby Performance Credit (SPC))	Specified in Current Proposed JP dated Sept 19, 2016 Rate for Rate Case 16-E-0060 (Standby Reliability Credit (SRC))	Specified in 2015 White Paper (dated July 28, 2015)	Specified in Track 2 Order (dated May 19, 2016)
Measurement KW Value Metering Point	Generator Output Meter	Con Edison Load Meter	Con Edison Load Meter	Con Edison Load Meter
Ancillary Metering for Con Ed Internal Purposes (not used to compute credit)	No	Yes		
Measurement Performance Period - Months	June 15 - Sept 15	RY1 - June 15 - Sept 15 ; RY2, RY3 - June 1 - Sept 30	Specified "Summer Period" <sup>1</sup>	Specified "Summer Period" <sup>1</sup>
Measurement Performance Period - Hours	10 AM - 10 PM	8 AM - 10 PM	Specified "Summer Period" <sup>1</sup>	Specified "Summer Period" <sup>1</sup>
Total Measurement Period Hours	780	1204		
Measurement Value Determination	Minimum	Maximum <sup>4</sup>	X	
Measurement Persistence	2 Consecutive Summer Periods	2 Consecutive Summer Periods	X	
Measurement Persistence Type	Down Ratchet	Up Ratchet		
Measurement Interval	15 min	15 min		
Measurement Value (Calculation)	Min Measurement KW Value (N) + adjacent Measurement Interval Value (N+1)	Max Measurement KW Value (N) + adjacent Measurement Interval Value (N+1)		
Measurement KW Value Determination	Avg (Measurement Value)	Avg (Measurement Value)		
Credit KW Value	CD minus (-) Measurement Value (Gen)	CD minus (-) Measurement Value (Load)	X	X
Credit Rate	CD in effect during summer period	CD in effect during summer period	X	X
Credit Amount	Credit KW value * Credit Rate	Credit KW value * Credit Rate	X	X
Minimum Exclusion Period Interval	24 Hours	24 Hours		X <sup>2,3</sup>
Number of Exclusion Periods	3	3		X <sup>2,3</sup>
Maximum Number Exclusion Days	5	5		X <sup>2,3</sup>
Cost Recovery	Entire Rate Base through MAC, NYPA recovery TBD in Document	Entire Rate Base through MAC, NYPA recovery through section H of PASNY tariff		

FOOTNOTES:  
<sup>1</sup> Specified "Summer Period" - Wording used in document  
<sup>2</sup> Exclusion periods were developed as a negotiated solution during the prior JP (rate case 13-E-0030/15-E-0050)  
<sup>3</sup> The Track 2 Order specifically recognizes the exclusion period was a way to resolve the issue of Con Edison causing DERs to trip offline. The Track 2 Order States "This provision will be adopted here at the numerical level in the Con Edison Tariff. As experience is gained with the reliability credit, customers or utilities may petition to change the levels".  
<sup>4</sup> Higher Load measured at the utility billing meter typically correlate with lower generation from the DER resource(s), unless other measures are involved