

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

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CASE 25-E-0072 – 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 25-G-0073 – 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.

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**POST-HEARING BRIEF OF  
CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.**

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**A. Preliminary Statement**

Consolidated Edison Company of New York, Inc. submits this Post-Hearing Brief addressing issues raised by UtiliSave, LLC and by the Independent Intervenors in their Statements in Opposition to the Joint Proposal and at cross-examination at the December 3, 2025 evidentiary hearing in these proceedings.<sup>1</sup> Neither UtiliSave nor the Independent Intervenors raise objections that undermine the Joint Proposal or provide justification for rejecting or modifying it.

**B. Discussion**

**A. UtiliSave, Inc.**

In its Statement in Opposition and the testimony of Michael Steifman, UtiliSave opposes the Joint Proposal because it does not require the Company to add certain information to customer bills or disclose more detailed billing-related calculations to customers on demand.

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<sup>1</sup> The Company's Statement in Support of the Joint Proposal addresses the concerns raised in other Statements in Opposition.

UtiliSave, however, did not file any direct testimony on the purported need for these disclosures or any other issue in advance of the Joint Proposal; nor did any other party. Indeed, until UtiliSave filed its opposition to the Joint Proposal, Con Edison was unaware of any such proposal in these cases. What record exists, however, fails to support UtiliSave's position: its claimed need for disclosure is entirely speculative and fails to justify any incremental compliance costs; much of which UtiliSave seeks is already disclosed or properly kept confidential; and no State law, regulation, or policy demands such granular disclosures.<sup>2</sup> For these reasons, and more, the Commission should reject UtiliSave's proposals to reject or modify the Joint Proposal.

**1. There is no factual or legal basis to require the detailed disclosures sought by UtiliSave.**

UtiliSave's filings focus on four components of customer bills: (1) the BTU factor, which converts a given volume of gas into the number of therms for which the Company charges a customer; (2) the Gas Cost Factor, an adjustment to gas supply charges based on the Company's costs to buy and transport natural gas; (3) the Market Supply Charge, an adjustment to electric supply charges based on various supply- and transmission-related costs; and (4) the Weather Normalization Adjustment, an adjustment to gas rates based on the number of actual heating degree days.<sup>3</sup> UtiliSave urges the Commission to reject or modify the Joint Proposal because it

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<sup>2</sup> Consistent with 16 NYCRR § 13.11, which requires utilities to include an "explanation of any calculations or factors used to determine the cost of service" on bills for non-residential customers, the Company includes an "Understanding your bill" box on every bill that explains what the factors are that go into the bill calculations by defining terms used on the bill, like "Basic service charge" and "Monthly rate adjustment." We are aware of no precedent holding that this regulation requires that the Company show "[t]he granular data, numbers or variables used to compute the charge, or any component of a charge," "[t]he mathematical formulas, actions, rules, or equations performed (including a sequential breakdown of each step of the process)"; and "[f]inal answers derived from the steps" for every bill component for every customer as argued by UtiliSave in its Post-Hearing Brief (at p. 4). Indeed, UtiliSave cited no precedent for its expansive interpretation.

<sup>3</sup> Hearing Tr. at 118:21-121:24; Case 25-E-0072 et al., UtiliSave, LLC Statement in Opposition to Approval of the Joint Proposal (Nov. 26, 2025) ("UtiliSave Statement"), at 5-6, 7-8, 11.

does not require Con Edison to include a breakdown of these rate components on customer bills or provide granular details on these factors to customers on demand.<sup>4</sup>

There is nothing in the record to support UtiliSave's requests outside of vague, conclusory statements that transparency is good and some unspecified customers might want this information to check that their rates are correct. No testimony or other evidence shows that any of these disclosures would be useful or beneficial to customers or that customers could make use of such highly technical calculations; UtiliSave's arguments to those ends are thus speculative. There is also nothing in the record to show that any of the purported benefits of disclosure would outweigh the costs to customers of making changes to the Company's billing system, revising its bill format to add this additional information, and upgrading its technology systems to make additional data available to customers.<sup>5</sup> While UtiliSave argues that the Company could make these changes at "minimal cost,"<sup>6</sup> there is nothing in the record to support that conclusion.

In addition, much of what UtiliSave requests is already available to customers. For example, the Company's gas tariff includes detailed descriptions of the components of the Gas Cost Factor<sup>7</sup> and the Company posts detailed numerical information by service class on its website.<sup>8</sup> Similarly, for the Weather Normalization Adjustment, the Company describes the

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<sup>4</sup> See Hearing Tr. at 125:2-8; UtiliSave Statement at 10-12. In addition to these four rate components, UtiliSave also twice asks the Commission to order the Company to provide customers with "access to DCAS upon request." UtiliSave Statement at 8, 11. This request does not make sense. As discussed in Sections M.11 and M. 12 of the Joint Proposal, at pages 91-93, DCAS is New York City's Department of Citywide Administrative Services, a government agency. UtiliSave, however, does not explain why a Con Edison customer would want access to DCAS or how Con Edison would control such access.

<sup>5</sup> See, e.g., Hearing Tr. at 184:9-185:5 (explaining that the Company's current systems cannot make BTU factor data directly available to customers).

<sup>6</sup> UtiliSave Statement at 12.

<sup>7</sup> PSC No. 9—Gas, General Information VII(A), Leaves 155-161.

<sup>8</sup> See <https://www.coned.com/en/rates-tariffs/rates/natural-gas> (last visited Dec. 11, 2025).

formula for its calculations in detail in its tariff<sup>9</sup> and posts the resulting adjustment on its website.<sup>10</sup> The Company also explains the Market Supply Charge in detail in its electric tariff.<sup>11</sup>

But beyond those current disclosures, much of what UtiliSave seeks includes commercially sensitive information on the Company's forecasting and hedging practices and pipeline contracts, which it properly keeps confidential.<sup>12</sup> Even so, the Company provides this granular information to Department of Public Service Staff each month so that the Company is held accountable for the accuracy of its customer billing rates.<sup>13</sup> In that way, the Company's and the Department's current procedures protect the interests that UtiliSave purports to represent.

## **2. Supposed “state policy” does not require additional information on customer bills or the other disclosures sought by UtiliSave.**

UtiliSave devotes most of its statement and much of its testimony to unearthing a supposed “state policy” in favor of transparency in a series of recent legislative proposals.<sup>14</sup> This effort, however, twists these bills beyond recognition.

Of the six bills discussed across UtiliSave's two filings, only two (S8530, S8128) concern individual customer bills. Neither bill, however, would require the disclosures sought here by UtiliSave. And even if they did, neither has passed out of a single legislative committee. Thus, they cannot fairly be read to establish a “state policy” in favor of UtiliSave's proposals.

The other four bills cited say nothing about disclosures on individual customer bills. Instead, they concern the conduct of utility rate cases. Of these four, one (S7869) has proceeded

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<sup>9</sup> PSC No. 9—Gas, General Information IX(1), Leaves 171-174.

<sup>10</sup> See <https://www.coned.com/en/rates-tariffs/rates/natural-gas> (last visited Dec. 11, 2025).

<sup>11</sup> PSC No. 10—Electric, General Rule 25.1, Leaves 329-330.1.

<sup>12</sup> See Hearing Tr. 177:5-179:6.

<sup>13</sup> See *id.* 174:20-176:13.

<sup>14</sup> See Hearing Tr. 122:8-124:22; UtiliSave Statement at 4-10.

out of committee in only one house of the Legislature, and another (S1194A) was vetoed by Governor Hochul.<sup>15</sup> So they also cannot be read to represent “state policy.” And the two bills that have been enacted only concern disclosures by the Commission in connection with rate cases (S9188) or prohibit false material statements in a rate case (S6710). While these two bills do represent state policy, they do not remotely speak to the disclosures UtiliSave raises here.

Instead, actual state policy is reflected in the Public Service Law and the Commission’s regulations. But neither the Legislature nor the Commission has required the type of granular disclosures (including of confidential information) urged here.<sup>16</sup> To the contrary, state policy has emphasized the “simplicity and clarity” of customer bills<sup>17</sup> and avoiding customer “confusion.”<sup>18</sup> And if “state policy” were to require these disclosures, the appropriate place to enact them would be through statewide legislation or administrative rulemakings, not an individual utility rate case.

**3. UtiliSave should have raised any issues in testimony before the parties completed negotiations on the Joint Proposal.**

In addition to its substantive defects, UtiliSave’s request that the Commission reject or modify the Joint Proposal is also procedurally improper. UtiliSave did not provide any direct testimony in these cases, much less on the particular disclosures it would like the Company to make; nor did any other party testify on these issues. None of UtiliSave’s proposals are dependent on terms of the Joint Proposal – each could and should have been made before the

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<sup>15</sup> The bill was delivered to the Governor December 1, 2025, and the Governor vetoed the bill on December 5, 2025. See <https://www.nysenate.gov/legislation/bills/2025/S1194/amendment/A> (last visited Dec. 12, 2025).

<sup>16</sup> See Pub. Serv. L. § 44 (governing utility bills and informational notices); 16 NYCRR § 11.16 (contents of residential utility bills); *id.* § 13.11 (contents of nonresidential utility bills); *id.* § 140.1 (contents of electric bills); *id.* § 273.1 (contents of gas bills).

<sup>17</sup> See Pub. Serv. L. § 66(12-a) (empowering the Commission to “fix and alter the format and informational requirements of [utility] bills... to assure simplicity and clarity...”).

<sup>18</sup> See 16 NYCRR § 140.1(r) (allowing additional pertinent messages and information on bills “[a]s long as it does not confuse the customer”); *id.* § 273.1(r) (same).

Joint Proposal was filed. UtiliSave’s position—that the Joint Proposal contravenes public policy because it lacks novel provisions that are not required by regulation and *no party ever asked for*—is contrary to the orderly administration of rate cases. If accepted, it would undermine the need for parties to file public testimony on their litigation positions and develop a record to support those positions *before* negotiations. Indeed, it would render the months of negotiations leading to the Joint Proposal a mere prelude to further bargaining and permit a post-settlement free-for-all in which non-signing parties sought to extract their preferred policy outcomes by filing objections for which the Company, Staff, and other signatories had no clear notice and no developed record. That outcome would be contrary to the orderly and timely conduct of rate proceedings.<sup>19</sup>

**B. Independent Intervenors**

In their Statement in Opposition,<sup>20</sup> the Independent Intervenors challenge the Joint Proposal on four grounds. First, the Independent Intervenors question the Company's efforts to address the Climate Leadership & Community Protection Act (“CLCPA”) in the Joint Proposal and further attack the State’s Greenhouse Gas (“GHG”) efforts. Second, the Independent Intervenors complain that the Company did not break down its programs and projects in the manner they requested. Third, the Independent Intervenors question the State’s ability to provide

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<sup>19</sup> UtiliSave cannot remedy this defect by piggybacking on a separate proposal in the Joint Proposal, entitled “Bill Transparency,” under which the Company will include information on bills regarding municipal property taxes. Before negotiations began, another party offered testimony on the impact of property taxes on customer billing rates and proposed that the Company disclose this impact on bills. UtiliSave did no such thing with respect to the rate components discussed in its late testimony and statement. That the Joint Proposal includes one provision under the broad heading of “bill transparency” in response to a specific, timely proposal does not open the door for other parties make new, unrelated demands after the close of negotiations. Nor does the presence of the property tax provision render the Joint Proposal defective for failing to include the unrelated provisions urged by UtiliSave.

<sup>20</sup> Statement of Independent Intervenors Roger Caiazza, Richard Ellenbogen, and Francis Menton in Opposition to the Joint Proposal (filed Nov. 26, 2025).

sufficient generation to the Con Edison service territory. Finally, the Independent Intervenors claim that the Joint Proposal should be rejected because inclusion of the funding they disagree with raises affordability concerns. During the Hearing, Messrs. Ellenbogen and Menton also cross-examined the Company and Staff with an overall focus on whether the projects and programs in the Joint Proposal appropriately considered the state's ability to meet clean energy goals and the state's supply outlook.<sup>21</sup> Each argument lacks merit and should be disregarded in the Commission's review of the Joint Proposal.

**1. The CLCPA and State Clean Energy Policies Are Outside the Scope of These Proceedings.**

The Independent Intervenor's Statement in Opposition is a hodgepodge of irrelevant statements with unclear citations. To the extent the Independent Intervenors question whether the state should or will meet CLCPA goals and mandates, those arguments are outside the scope of these proceedings. The CLCPA is state law and whether it is good policy is not at issue in a rate proceeding. Similarly, any GHG emission goals established by the State are outside the scope of these proceedings. The purpose of these proceedings is to determine whether the Company's electric and gas base rates for 2026-2028 are just and reasonable and not whether New York State's clean energy policy is wise or achievable.

**2. The Company cannot isolate and eliminate Climate Act related programs and projects.**

In their Statement in Opposition, the Independent Intervenors challenge a discovery response on the breakdown of projects and programs between reliability and safety costs compared to clean energy benefits. In addition to being procedurally improper, the Independent Intervenors continue to misunderstand the framework of projects and programs in the Joint

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<sup>21</sup> See Hearing Tr. 189-262.

Proposal. As explained by the Company's Electric Infrastructure and Operations Panel, projects that are needed for safe and reliable service may also enable customers to adopt clean energy measures such as building or vehicle electrifications.<sup>22</sup> Simply put, the same project that increases capacity in an area, improving safety and reliability, creates capacity for customers who elect to drive electric vehicles or convert their buildings to electric heating. On the Gas side of the business, the Company's Gas Infrastructure Replacement or Reduction Program is an example of a gas safety program that will also reduce fugitive emissions. The multi-value nature of the projects means there is no reasonable way to isolate<sup>23</sup> and eliminate the clean energy-related funding targeted by the Independent Intervenors without also eliminating programs and projects needed for safety and reliability.

### **3. NYISO Matters Are Outside the Scope of These Proceedings.**

The Independent Intervenors also claim that the Joint Proposal should be rejected because they view the NYISO 3Q STAR report as finding there is insufficient generating capacity to meet the increased needs of Con Edison's customers. But that is not at issue here. These cases concern Con Edison's rates for delivering electricity and natural gas. They do not concern the adequacy of the state's generation mix or the NYISO STAR process. The NYISO STAR process is governed by NYISO's FERC approved tariff and the Company is required to report on possible transmission solutions as part of that process. Moreover, the Commission does not review resource adequacy in delivery rate proceedings.

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<sup>22</sup> There was also testimony at the Hearing that the investments funded under the Joint Proposal are predominantly focused on enhancing the electric system in support of safe and reliable service that may also support building transportation and electrification. *See* Hearing Tr. 208:20-23.

<sup>23</sup> *See* Hearing Tr. 254:21-25, 255:2-8.

The Independent Intervenors also tack on a claim that the Joint Proposal should be rejected because inclusion of electric infrastructure funding that the Independent Intervenors deem unnecessary raises affordability concerns. As discussed in the Company's Statement in Support of the Joint Proposal, the Joint Proposal reflects a careful balancing of the need to provide safe and reliable utility service while mitigating bill impacts and addressing state energy policy goals. The proposed multi-year rate plan contains significant rate mitigators, provides rate stability and shapes the revenue requirement increases over the proposed three-year term. The Independent Intervenor have not set forth any evidence of programs or projects that can be eliminated without risking operational function, customer service levels, reliability or safety. The full record of these proceedings clearly demonstrates that the Joint Proposal is reasonable and in the public interest and should, therefore, be adopted.

### **C. Conclusion**

For the reasons set forth above, none of the objections raised undermine the Joint Proposal or provide justification for rejecting or modifying it. The terms Joint Proposal are consistent with both law and policy, have a rational basis, balance the interests of customers and the Company, and compare favorably with the outcome of litigation. Accordingly, the Commission should adopt the Joint Proposal without modification.

Respectfully submitted,

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