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THE SENATE  
STATE OF NEW YORK

**ROBERT JACKSON**  
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## BEFORE THE PUBLIC SERVICE COMMISSION STATE OF NEW YORK

Case 22-E-0064

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.

### STATEMENT IN OPPOSITION OF THE JOINT PROPOSAL BY STATE SENATOR ROBERT JACKSON

This Statement of Opposition (“Statement”) is respectfully submitted by State Senator Robert Jackson (“Senator Jackson”) in opposition to the Joint Proposal (‘JP’) for settlement issued and signed by several of the parties on February 16, 2023, to Cases 22-E-0064 and 22-G-0065.

This statement is only addressing Case 22-E-0064.

There are several areas of the JP that Senator Jackson wishes to highlight in the statement of opposition. While Senator Jackson will not comment upon every topic of the JP, that should not be construed to indicate support.

Dario Quinsac submitted direct testimony in this proceeding and participated in settlement meetings on behalf of Senator Jackson.

Discovery requests were submitted and responded to by Consolidated Edison Company of New York, Inc. (“Con Edison” or “Company”).

The rates in this Joint Proposal are a reduction from Con Edison's initial rate demands, but customers will still feel the pain over the 3 years of this rate plan if this JP goes into effect.

For full context, it’s important to reiterate the fact that Con Edison has a monopoly of the electric delivery system in its service territory and, as such, doesn’t have to compete, which means they are only truly at risk if the overall electric market consumption were to collapse.

Most residential customers and small business electric customers are deemed full-service customers, which means Con Edison delivers and supplies electricity.

Electricity Supply is provided at cost and is not a profit center. Delivery is where Con Edison makes its “guaranteed” profits which is in line with regulatory commissions’ belief that utilities deserve a profit in a monopolistic situation.

Con Edison places its shareholders before ratepayers; the timing of this filing confirms this notion. Con Edison accelerated the final steps of the JP to be able to include the summary terms in their 2022 Earnings Report.

*In evaluating a joint settlement proposal, the Commission must determine whether “the terms of the proposal, viewed as a whole, produce a result that is in the public interest.” In evaluating whether a settlement proposal is in the public interest, the Commission must consider several factors, including whether (1) the settlement proposals are consistent with sound environmental, social, and economic policies of the Agency and the State; (2) the settlement strikes a balance between “protection of the ratepayers,” “fairness to investors,” and “the long term viability of the utility;” and (3) the settlement results are within the range of reasonable results that would likely have arisen from a Commission decision in a litigated proceeding.” In addition, the Commission must take into account the fact that “settlement reflects the agreement by normally adverse parties,” and give weight to the fact that a settlement is contested.*

The Joint Proposal includes several significant items that are not in the public interest.

The JP doesn't contain enough provisions supportive of and in furtherance of the objectives of the Climate Leadership and Community Protection Act ("CLCPA") which became law in 2019, a bill Senator Jackson co-sponsored in the New York State Senate.

The CLCPA seems more like an afterthought in this proposal because it is mentioned very sporadically and in strategic sections of this JP. The following footnote is important to describe Con Edison's appetite for risk regarding the CLCPA, "Nothing in this JP precludes or limits the Company from seeking recovery of incremental costs associated with the implementation of the New York State Climate Leadership and Community Protection Act."

Below you will find below specific topics I would like to highlight.

## Rates and Revenue Levels

### Electric

Oppose – This level of increase in Revenue financially hurts ratepayers. This JP extends the tendency of the Company's ECOS approach to over allocate cost responsibility onto small customers.

Earnings Sharing Threshold Oppose - *If the level of earned common equity return for any Rate Year exceeds 9.75 percent ("Earnings Sharing Threshold"), the amount in excess of the Earnings Sharing*

### Earnings Calculation Method

Oppose - *For earnings above the related Earnings Sharing Threshold in any Rate Year, the Company will apply fifty (50) percent of its share and the full amount of the customers' share of earnings above the sharing threshold that would otherwise be deferred for the benefit of customers under this Proposal, to reduce under-collection of Site Investigation and Remediation costs ("SIR Costs") deferred in the Rate Year*

### Costs Chargeable to the Major Storm Reserve

Support – *Subject to the \$350,000 deductible above, the Company will be allowed to charge all pre-staging and mobilization costs (i.e., the \$4.5 million per event cap will not apply) for events that meet the definition for a Tropical Cyclone Event, i.e., an event that the Company prepares for where the Company's service territory appears in the National Hurricane Center's "5-day Probability of 50kt Winds" forecasting map.*

## Revenue Allocation

Oppose - *The allocation of the delivery revenue change for each Rate Year is explained in Appendix 16. In its next electric base rate filing, the Company will make reasonable efforts to develop the proposed base electric delivery rates using an Embedded Cost of Service ("ECOS") study premised upon calendar year data that is no more than two years prior to the calendar year in which the filing is made (i.e., if the Company files at any time in 2025, it will make reasonable efforts for the proposed rates to be premised upon a 2023 ECOS study year).*

## Rate Design

Oppose – Underlying formula. Parties have worksheet.

## Customer Charges

Oppose - The Customer Charge increases are not in the public interest, and to say that they are, would be wrong, especially for the customers I represent.

The Joint Proposal's provision to increase the SC-1 residential electric fixed customer charges should be rejected, it's contrary to the State's climate goals and a slap in the face to those customers that can least afford this increase. A purely volumetric system would bill everyone fairly based on consumption and penalize those that don't pursue energy efficiency. Customers would also be required to pay higher monthly fixed charges — 18% for electricity regardless of how much energy they consume. The Joint proposal includes an increase the SC-1 customer charge for electricity from \$17.00 to \$20.00.

## Optional Demand-Based Rate (SC 1 Rate IV)

Support - The price guarantee will be limited to new or existing residential customers operating either air source heat pumps or ground source heat pumps.

## Tariff Changes

Support - The following changes

c. Modify General Rule 6.10, the AMI Opt-out tariff provision, to clarify that opt-out customers are not subject to the meter reading fee for months where the Company does not attempt a manual meter reading.

d. Add additional customer protection language to General Rule 14.1.4 modifying the conditions for the termination of service by allowing HEAP payments to be utilized, and not terminating service to residential and elderly, blind and disabled customers during certain weather conditions.

h. Increase the amount of compensation payable for losses due to power failures under General Rule 21.1 (Leaf 171). Increase the compensation limits for residential customers for food spoilage with and without proof of loss from \$540 to \$580 and from \$235 to \$250, respectively, and for commercial customers from \$10,700 to \$11,460.

j. Changes to Rider J – Business Incentive Rate (“BIR”):

i. Extend the BIR application period during the term of the new rate plan.

ii. Update the Biomedical Research Program as follows:

1) For existing customers, the term for BIR rate reductions will be extended by two years.

2) For new customers:

a) For applications through December 31, 2025, the term will be 12 years.

b) For applications after January 1, 2026, the term reverts back to 10 years.

## Customer Energy Solutions Labor

Support - *Customer Energy Solutions incremental and total labor increases.*

## Conservation Voltage Optimization (“CVO”)

Concerns - Specific to the following section: *f. In the event a high-tension customer experiences a potential voltage issue, once the high-tension customer reports the issue to Con Edison, Con Edison will investigate and analyze the issue to determine the cause. In the event the issue is associated with voltage optimization, Con Edison will work with the high-tension customer to address the CVO impact on the customer's equipment. Con Edison doesn't plan on paying customers for equipment damage connected to CVO implementation / activation.*

## Building Energy Usage Data

Concerns – Project will not be completed fast enough for small building owners to comply with the City of New York Local Laws 84 and 97.

## Earnings Adjustment Mechanisms (“EAMs”)

EAMs are shareholder incentives / rewards.

Support – Smart Building Electrification, Transportation Interconnection Timeline, DER Utilization Solar.

Transportation Interconnection Timeline - *The Transportation Electrification Interconnection Timeline (“TE Interconnection”) EAM incentivizes the Company to reduce the average timeline for transportation*

*electrification projects from application to energization, relative to a historical baseline, for transportation electrification projects 300 kilowatts (kW) and larger each rate year.*

*For the purpose of this EAM, transportation electrification projects refer to cases for which the electric vehicle load request is one-half or more of the total load request, and the 300-kW threshold refers to the total transportation electrification load and does not include any non-transportation electrification load.*

## Oppose – Light-Duty Vehicle Emissions

Light-Duty Vehicle Emissions - *The BEV measurement will consider all incremental light-duty BEVs on the road in the Company’s service territory during each Rate Year. The Company primarily tracks*

*vehicles on the road in its service territory using Atlas’ Evaluate NY, a NYSERDA funded tool that uses vehicle registration data from the New York State Department of Motor Vehicles and may supplement with any other available sources.*

## Negative revenue adjustments:

### Support Additional NRAs

Potential charges if certain performance targets relating to service, reliability, safety and other matters are not met:

Yr. 1 - \$516 million

Yr. 2 - \$557 million

Yr. 3 - \$597 million

## Advanced Metering Infrastructure

Neutral – AMI Infrastructure will be indirectly addressed by Estimated and Delayed Billing Metric.

## New Customer Service System (“New CSS”) Testing

Concerns - The Company will test the New CSS with energy service companies (“ESCOs”) as planned and hold meetings with ESCOs monthly, or more frequently as needed, regarding the status of implementation and stabilization. The Company will also coordinate with non-ESCO third parties and have status calls as needed as testing proceeds.

## Outreach and Education

*Support - Additionally, the Company will expand language offerings in brochures, in-person event materials, direct mail, flyers and print advertising, where feasible within the Outreach and Education budget. These offerings will include Spanish, Russian, Chinese, Korean, Polish, and Bengali based on Company and external data (e.g., census data) regarding language preference in a given community.*

## Estimated and Delayed Billing

*Support - The Company agrees to create the Estimated and Delayed Billing Metric to measure the percentage of customer bills that have been estimated or delayed longer than 125 days as of the end of each calendar quarter. Appendix 24 for more details.*

I appreciate the Parties' support in introducing this metric.

### Terminations/ Uncollectibles /Arrears Metric

*Support - In light of the COVID-19 pandemic and Chapters 108 of the Laws of New York of 2020 and 106 of the Laws of New York of 2021, which amended Public Service Law § 32 and imposed moratoriums on terminations of service for residential and eligible small business customers, the Company's existing termination/uncollectible/arrears metric shall be suspended for the term of the Rate Plans.*

### Weather-Related Customer Protections

*Support Changes - The Company will suspend service termination for non-payment ("TONP") for residential customers during certain heat events as follows:*

*\*On days where the heat index is forecasted by the National Weather Service to reach 90 degrees or higher.*

*\*One calendar day before days where the heat index is forecasted by the National Weather Service to reach 90 degrees or higher.*

*\*If the actual heat index reaches 90 degrees or higher on a given day, the Company will suspend residential TONPs on the following two calendar days.*

### AMI Opt-Outs

*Support -The Company will modify its AMI Opt-out Tariffs to clarify that opt-out customers are not subject to the meter reading fee for months where the Company does not attempt a manual meter reading. This modification is not intended to change the Company's obligation to attempt to read customer meters.*

### (EAP) Customer Enrollment

*Support Changes - The Company agrees to develop internal controls for Company management to be notified of completed EAP file matches each quarter. The Company will provide updates on file matches between the Agencies and the Company to the EAP Working Group.*



## Retail Access Issues

Concerns – Timeline and Reconciliation within NYISO v3 window and ESCO billing.

## Disadvantaged Communities Report

Opposed – Reporting without financial penalties for non-implementation or compliance is not a responsible solution to restoring and truly assisting “Disadvantaged Communities.”

It’s important to note that the definition itself is not standardized and subject to legal debate among parties.

## Conclusion

For the reasons stated above, I respectfully request that the Commission freeze the fixed customer charges and delivery charges for SC-1 electric customers at today’s rates.

In Unity,

A handwritten signature in black ink, appearing to read "Robert Jackson", with a long, sweeping horizontal stroke extending to the right.

Robert Jackson