

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

Proceeding on Motion of the Commission as to the)	
Rates, Charges, Rules and Regulations of)	Case 25-E-0072
Consolidated Edison Company of New York, Inc.)	
for Electric Service)	

Proceeding on Motion of the Commission as to the)	
Rates, Charges, Rules and Regulations of)	Case 25-G-0073
Consolidated Edison Company of New York, Inc.)	
for Gas Service)	

**POST-EVIDENTIARY HEARING BRIEF OF
ENVIRONMENTAL DEFENSE FUND**

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I. INTRODUCTION

Pursuant to the Administrative Law Judges’ (“ALJs”) ruling at the December 3, 2025 evidentiary hearing, Environmental Defense Fund (“EDF”) respectfully submits its post-hearing brief in the above-captioned proceedings before the New York State Public Service Commission (“Commission” or “NYPSC”) regarding Consolidated Edison Company of New York, Inc. (“Company” or “ConEd”) rates for gas and electric delivery service.¹ The Statements in Support of the Joint Proposal demonstrate that its terms: (1) fairly balance the protection of consumers with fairness to investors and the long-term viability of the utility; (2) are consistent with the environmental, social, and economic policies of the Commission and the State; (3) fall within the range of reasonable likely outcomes that would have resulted in a fully litigated proceeding; and (4) are supported by the record.² Nothing offered in any of the Statements of Opposition or at the evidentiary hearing undermines this conclusion. For the reasons set forth below, the Joint Proposal is in the public interest, and the Commission should approve its terms.

II. ARGUMENT

A. There is Broad Agreement Regarding the Benefits of Improving the Design of SC1 Rates III and IV and Enhancing Customer Rate Education

The Joint Proposal’s provisions with regard to the Company’s residential optional volumetric time-of-use and demand-based rates, as well as customer outreach and education regarding those rates, fall within the range of reasonable likely outcomes that would have resulted

¹ The ALJs stated they will “accept post-hearing briefs with respect to issues raised at the evidentiary hearing and to reply to the statements in support or opposition to the Joint Proposal[.]” December 3, 2025 Evidentiary Hearing Transcript at 294, lines 4-8 [hereinafter Transcript].

² *Proceeding on Motion of the Commission Concerning its Procedures for Settlements and Stipulation Agreements*, Cases 90-M-0255 & 92-M-0138, Opinion No. 92-2, Opinion, Order, and Resolution Adopting Settlement Procedures and Guidelines (March 24, 1992).

in a fully litigated proceeding and are well-supported by the record in this case. The Joint Proposal incorporates three improvements to SC1 Rates III and IV: (1) obligates the Company to engage in a process to study and adopt simpler, more affordable rates that will benefit heat pump customers; (2) broadens the availability of the price guarantee to include those customers taking service under SC1 Rate III; and (3) incorporates robust reporting requirements detailing customer participation in the alternative rates.³ While the Company, Staff, and EDF all had differing testimonial positions regarding the appropriate changes to the Company’s volumetric time-of-use rates, the Joint Proposal strikes a reasonable ultimate outcome.⁴ Additionally, as proposed in testimony by Alliance for a Green Economy (“AGREE”) and supported by EDF,⁵ the Joint Proposal includes beneficial programs for customer outreach and education regarding rate options.

There is broad support of these provisions among parties with a wide range of interests. The Company notes that the Joint Proposal will expand the accessibility of both SC1 Rates III and IV, the associated annual reporting will “provide useful information to stakeholders,” and improved customer outreach and education programs are “aimed at helping customers navigate the clean energy transition” and will “educate consumers on heat pump use and availability.”⁶ Staff explains that the Joint Proposal “establishes a reasonable process to carefully consider potentially significant and meaningful changes to impactful design criteria such as the duration of on-peak

³ See Joint Proposal at 53-54 (Section G.5 “SC 1 Rate III and SC 1 Rate IV”).

⁴ See, e.g., Rebuttal Testimony of Company Electric Rate Panel at page 47, line 14 through page 50, line 14 (June 24, 2025); Rebuttal Testimony of Staff Markets and Innovation Panel at 8, lines 14-20 (June 24, 2025); Corrected Direct Testimony of Ron Nelson on behalf of EDF at 19, lines 17-23 (June 16, 2025).

⁵ Direct Testimony of Alexander Lopez on behalf of AGREE at 63-66 (May 30, 2025); Corrected Direct Testimony of Ron Nelson on behalf of EDF at 5, lines 16-20 (June 16, 2025).

⁶ Statement in Support of Electric and Gas Joint Proposal by Consolidated Edison Company of New York, Inc. at 26-27, 33-34 (Nov. 26, 2025).

periods for SC 1 Rates III and IV.”⁷ Staff also confirms that these terms “are reasonable, in the public interest, and are likely to improve rate design options available from Con Edison as well as provide additional information useful to other ongoing statewide efforts and should therefore be approved by the Commission.”⁸ Staff states that “proactive rate option information should help induce customers to try alternative rate designs, possibly leading to lower bill impacts for both participants and non-participants and smarter utilization of existing grid assets.”⁹ EDF and AGREE’s Statements in Support confirm the same.¹⁰

Even those parties who did not submit a statement in support of the Joint Proposal acknowledge the benefits that improved heat pump rate design and education will provide. For example, New Yorkers for Clean Power “applauds the agreement to study and eventually adopt fairer and simpler rates for heat pump customers along with an improved price guarantee program.”¹¹ Assemblymembers Burdick, Levenberg, and Shimsky note that “the continuation and elimination of caps for the price guarantee for customers in Service Class Rate 1-IV, as detailed on page 54 of the Joint Proposal, will help make it more affordable for residential customers to transition to clean heating technologies like air source and ground source heat pumps. Improved

⁷ New York State Department of Public Service Staff Statement in Support of the Joint Proposal at 85 (Nov. 26, 2025).

⁸ *Id.*

⁹ *Id.* at 105.

¹⁰ See Statement of Support of Joint Proposal by Environmental Defense Fund at 11 (Nov. 26, 2025 (“[t]he Joint Proposal represents significant progress to improve the availability of fair and affordable rates for residential heat pump customers”); Statement of Support for the Joint Proposal of Alliance for a Green Economy at 8 (Nov. 26, 2025) (“the improvements to SC1 Rate III and the Heat Pump Operating Economics Customer Engagement Plan will help families save money when they switch to clean, efficient heat pumps. The provisions in the Joint Proposal make the Company’s rates more just and reasonable, reduce an operating cost barrier to heat pump adoption, thereby advancing achievement of the state’s greenhouse gas reduction policy.”).

¹¹ Statement of New Yorkers for Clean Power Regarding Joint Proposal at 1 (Nov. 26, 2025).

education and outreach associated with these beneficial rates will help make customers aware of their options, ensuring the clean energy transition is affordable for average ratepayers.”¹² Accordingly, the Joint Proposal’s treatment of residential optional volumetric time-of-use and demand-based rates reflects a balanced and well-supported resolution that advances affordability, facilitates electrification, and promotes transparent evaluation of future rate design improvements. The Commission should therefore adopt these terms as consistent with the public interest.

B. The GHG Accounting Framework is Essential to Meeting the Commission’s Obligation under New York’s Climate Law

The Joint Proposal’s provisions with regard to greenhouse gas (“GHG”) emissions accounting and reporting are consistent with the environmental policies of the Commission and the State, fall within the range of reasonable likely outcomes that would have resulted in a fully litigated proceeding, and are supported by the record. The Joint Proposal requires the Company to file an assessment of projected GHG emissions associated with certain gas and electric system projects and programs for each rate year during the rate term (2026, 2027, 2028), along with a baseline GHG emissions estimate for calendar years 2024 and 2025.¹³ Many of the inputs and assumptions used to calculate the gas and electric emissions are provided to the Commission as part of the record of decision for this proceeding in Appendix 23 to the Joint Proposal. These provisions were the result of a balanced compromise and took into account several of the recommendations offered by both EDF and Staff in their testimony.¹⁴

¹² Joint Statement of the Offices of New York State Assembly Members Burdick, Levenberg & Shimsky and the County of Westchester at 2 (Nov. 25, 2025).

¹³ See Joint Proposal at 116-117 (Section P.2 “GHG Emissions”).

¹⁴ See Direct Testimony of David Lyon on behalf of Environmental Defense Fund at page 33, line 7 through page 35, line 4 (May 30, 2025); Staff CLCPA Panel Direct Testimony at page 20, line 1 through page 21, line 22.

Section 7(2) of the New York State Climate Leadership and Community Protection Act (“CLCPA”) requires that “all state agencies,” in “considering and issuing” administrative approvals and decisions, “shall consider whether such decisions are inconsistent with or will interfere with the attainment of the statewide greenhouse gas emissions limits”—and if so, the agency must adopt mitigation measures to address the related emissions.¹⁵ The Commission has stated that “it must establish clear and consistent statewide guidelines for GHG emissions reporting requirements to ensure that the State’s major electric and gas IOUs (collectively, the Utilities) are on track to meet the CLCPA targets,” and further directed New York utilities in future rate case filings to “include an assessment of the GHG emissions impacts of each specific investment, capital expenditure, program, and initiative included in their rate filings.”¹⁶ While a consistent, statewide framework is still needed, the Joint Proposal’s provisions on GHG emissions accounting represent meaningful progress. The information provided in Appendix 23 is essential to assisting the Commission in its determination as to whether the outcome of this rate case is consistent with statewide emissions limits, as required by CLCPA Section 7(2).

This provision of the Joint Proposal is also broadly supported by several parties, including those who expressed opposition to other issues. For instance, New York State Assembly Members Burdick, Levenberg and Shimsky state that the “greenhouse gas emissions reporting requirements detailed in section P of the Joint Proposal, ‘Clean Energy Transition,’ will provide useful information to the Company, Commission and Department Staff, elected officials, advocacy

¹⁵ 2019 N.Y. Laws 106, § 1(4); *id.* § 2 (N.Y. ECL §§ 75-0107(1), 75-0103(14)(d)).

¹⁶ *In the Matter of Assessing Implementation of and Compliance with the Requirements and Targets of the Climate Leadership and Community Protection Act*, Case 22-M-0149, Order on Implementation of the CLCPA at 14-15, 16 (May 12, 2022).

groups, and other stakeholders that can be used in future rate cases or proceedings to improve the state's clean energy transition.”¹⁷ The City of New York detailed similar benefits, and AGREE expressed support.¹⁸ The support for this provision reinforces its reasonableness and critical value as a tool for enhancing transparency and accountability for GHG reporting.

C. Independent Intervenors' Issues are Outside the Scope of this Proceeding and Should be Rejected by the Commission

Mr. Caiazza, Mr. Ellenbogen, and Mr. Menton (collectively “Independent Intervenors”) raise three principal objections to the Joint Proposal: (1) the likelihood and ability of the State to meet the CLCPA's greenhouse gas requirements; (2) the sufficiency of electric generation resources required to meet ConEd's load; and (3) a need for clearer delineation of infrastructure costs associated with reliability and safety versus climate-related objectives.¹⁹

The Independent Intervenors' arguments regarding the State's ability to meet its CLCPA obligations fall outside the scope of this rate proceeding, which is limited to evaluating Con Edison's delivery rates and related capital and operational expenditures.²⁰ The Commission has consistently held that arguments beyond this scope are not to be addressed in rate proceedings.²¹

¹⁷ Joint Statement of the Offices of New York State Assembly Members Burdick, Levenberg & Shimsky and the County of Westchester at 3 (Nov. 25, 2025).

¹⁸ Statement of the City of New York in Support of the Joint Proposal at 28 (Nov. 26, 2025) (the improvements to the GHG reporting requirements “will allow the Commission, the Company, the City, and others to track and monitor the Company's actions in furtherance of the CLCPA and Local Law 97”); AGREE Statement of Support for the Joint Proposal at 2-3 (Nov. 26, 2025).

¹⁹ Statement of Independent Intervenors Roger Caiazza, Richard Ellenbogen, and Francis Menton in Opposition to the Joint Proposal at 5-6 (Nov. 26, 2025).

²⁰ Transcript at 215, lines 22-25 (“The Joint Proposal covers investment required to deliver electricity to meet customer demand in accordance with safe and reliable service.”).

²¹ See, e.g., *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Central Hudson Gas & Electric Corporation for Electric and Gas Service*, Cases 23-E-0418 & 23-G-0419, Order Establishing Rates for Electric and Gas Service at 105-106 (July 18, 2024) (finding that “[w]holesale

Independent Intervenors’ concerns regarding statewide electric generation adequacy likewise fall outside the scope of this proceeding. Notably, Independent Intervenors concede this point in their Statement in Opposition.²² Under the Public Service Law, Con Edison is a distribution utility whose obligation is to provide safe and adequate service.²³ This rate case is not the venue for litigating statewide generation planning, which occurs through separate New York Independent System Operator processes.²⁴

Independent Intervenors also challenge Appendix 11 of the Joint Proposal for failing to provide “information as to which of these projects and costs are necessary for system reliability and safety, versus which projects and costs are included to support infeasible and impossible ‘climate’ goals.”²⁵ But as the Company explained during the hearing, such a dichotomy is artificial and unworkable because most utility investments serve multiple statutory and operational purposes simultaneously.²⁶ The Commission has repeatedly recognized the legitimacy of multi-value

distribution rates are not within the jurisdiction of this Commission to establish” and agreeing with Central Hudson’s argument that they are outside the scope of the rate proceeding).

²² Statement of Independent Intervenors Roger Caiazza, Richard Ellenbogen, and Francis Menton in Opposition to the Joint Proposal at 9 (Nov. 26, 2025) (“Generation of the electricity is outside of the Company’s purview[.]”).

²³ PSL Section 65(1).

²⁴ *See Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and Clean Energy Standard*, Case 15-E-0302, Order Approving Contracts for the Purchase of Tier 4 Renewable Energy Certificates at 52-53 (Apr. 14, 2022) (discussing the NYISO’s Comprehensive Reliability Plan which addressed the latest outlook on capacity margins in New York City).

²⁵ Statement of Independent Intervenors Roger Caiazza, Richard Ellenbogen, and Francis Menton in Opposition to the Joint Proposal at 20 (Nov. 26, 2025).

²⁶ *See* Transcript at page 254, line 22 through page 255, line 5 (“our projects and programs in the Joint Proposal, they satisfy multiple purposes. So it’s meeting safe and reliable energy delivery, and there might be a byproduct of clean energy transformation embedded in there. There’s not a lot of projects that are only for meeting electrification or meeting certain CLCPA goals. It’s all multi-value projects.”).

investments and Independent Intervenors offer no reason why the Commission should depart from that past practice here.²⁷

The remainder of Independent Intervenors' arguments are unsupported, speculative, and largely rhetorical. They fail to sufficiently engage with the evidentiary record and with the Commission's Settlement Guidelines. For these reasons, they should be accorded no weight by the Commission.

III. CONCLUSION

The Joint Proposal satisfies the public interest standard, the Commission's Settlement Guidelines, and relevant provisions of the CLCPA. For the reasons detailed herein, the Commission should approve the Joint Proposal.

Respectfully submitted,

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²⁷ See *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric and Gas Service*, Cases 22-E-0064 & 22-G-0065, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans with Additional Requirements at 58 (July 20, 2023) ("increases are needed to fund programs and capital investments necessary to ensure the provision of safe, adequate, and reliable electric and gas service, an express obligation of the Companies and the Commission's rate-setting authority in PSL §65 and §66, while promoting Commission and State clean energy and other policy objectives.").