report

STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

FILES
99-M-0631

May 19, 1999

CASE 99-M-0631 - In the Matter of Customer Billing Arrangements

STAFF REPORT ON ALTERNATIVE BILLING ARRANGEMENTS

INTRODUCTION

The restructuring of the energy industry is intended to bring choice of providers and service offerings to the State's consumers. Instead of the familiar practice of purchasing all aspects of electric and natural gas service from their local utilities, and receiving a combined bill from the local utility for all services rendered and commodities delivered, consumers may choose to purchase their energy and energy services[1/] instead from energy service companies (ESCOs) and/or natural gas marketers (Marketers).[2/] Within this new paradigm, different or additional billing arrangements have been developed and others may also be appropriate. This report sets forth staff's proposal for an alternative billing arrangement.

BACKGROUND

In an August 1997 discussion paper on billing issues, staff suggested that customer preferences should drive the billing arrangements between ESCOs and utility companies. In

1/ In one instance [i.e., in Rochester Gas and Electric Corporation's (RG&E) retail access program], consumers also purchase electric "delivery" services, on a resale basis, from an entity other than the local utility.

2/ An ESCO is typically considered to be an entity that can perform electric energy and customer service functions in a competitive environment, including the provisions of electric energy and assistance in the efficiency of its use. A Marketer serves the same function with respect to natural gas. In this document, staff uses the term ESCO to refer to both.

that paper, staff identified four billing arrangements that might be employed to meet customer preferences.[1] They were:

- utilities and ESCOs render separate bills (the "two bill" arrangement)[2];
- utilities render combined bills (single bills) that include the ESCOs' charges (the "utility single bill" arrangement);
- ESCOs render single bills that include the utilities' charges (the "ESCO single bill" arrangement); and
- ESCOs purchase delivery services from the utilities and render single bills (under the "single retailer model").

Staff proposed that the utilities make all four of these arrangements available.

Comments on the August 1997 paper were submitted by the utilities, ESCOs, and other interested parties. Following review of the staff paper and the comments of the parties, the Commission, in an Order issued March 3, 1998,[3] required the utilities to make the "two bill" arrangement available to ESCOs, where consistent with the Orders addressing the Competitive

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[1] Staff's list was not necessarily a complete list of all possible billing arrangements. There may be others, such as the outsourcing of the billing function, that meets a utility's or ESCO's particular needs. Further, the list did not include the "Billing Agency" arrangement, which in many respects resembles a "single bill" arrangement. That variation is discussed in more detail later in this report.

[2] Under the "two bill" arrangement, the utility bills the retail access customer for its delivery services and the ESCO bills the customer for the commodity and other services it provides.

[3] Cases 94-E-0952 and 28080, In the Matter of Competitive Opportunities Regarding Billing, Order Establishing Regulatory Policies Regarding Billing, (issued March 3, 1998) (March 3 Order).

Opportunities settlement agreements.[1] The Commission determined that, of the arrangements identified, the "two bill" arrangement appeared to be the least costly and easiest to implement at that time, but it directed staff to continue to work with the utilities, ESCOs and other interested parties to evaluate and develop other billing arrangements.[2]

In November 1998, staff issued a second discussion paper and requested comments on various issues associated with requiring utilities to allow ESCOs to render combined bills containing both the utility and ESCO components (i.e., the "ESCO single bill option").[3] Staff noted that, in areas where consolidated billing was not already available, many ESCOs and their customers had expressed desires for single bills that would include all the ESCO and utility charges.

Staff described its vision of the "ESCO single bill" arrangement:

> ...the utility's charges would be included with the ESCO's charges on a unified bill provided by the ESCOs (or their designees). The cost of the competitive billing elements (the functions that would no longer be performed by the utility) would be unbundled and added to the respective utility's back-out credit. This option could be implemented through a billing and collection arrangement between the ESCO and the utility.

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[1] The "two bill" arrangement is inconsistent with the "single retailer model" approved for use in the RG&E service territory. Thus, the "two bill" requirement was not imposed on RG&E.

[2] The Commission did not prohibit utilities in the interim from offering any of the other arrangements or from developing new ones. Indeed, the "utility single bill" and the "single retailer model" (RG&E) arrangements are currently in use. In addition, the "Billing Agency" arrangement is being used in Con Edison's service area.

[3] National Fuel Gas, (NFG), currently (voluntarily) allows its marketers to bill for both commodity and transportation. In essence, NFG has already established an "ESCO single bill" arrangement. We are unaware of any problems that have arisen during the three years of NFG's program.

Some 25 parties submitted initial and/or reply comments on the November 1998 paper. The comments and replies discussed issues ranging from whether single billing is necessary or desirable to exactly which billing functions a utility should be required to allow an ESCO to perform.

Based on the parties' comments, staff has revisited the issues raised and developed a formal proposal for an "ESCO single bill" requirement on utilities. As the comments on the November 1998 paper evinced some misunderstanding, staff stresses that an "ESCO single bill" arrangement would be mandatory only on utilities and only when requested by a qualified ESCO. Customers would, therefore, have the option of selecting a supplier with billing arrangements with which they are comfortable. Staff recommends that the Commission solicit comments from interested parties. The staff proposal is detailed below, prefaced by a discussion of several issues.

DISCUSSION

The threshold billing issue is whether the utilities should be required to allow ESCOs to provide their customers with consolidated utility/ESCO bills. Several questions must be answered to address this issue:

1. Is a "single bill" arrangement necessary to meet customer preference and foster competition?

2. Assuming that a "single bill" arrangement is necessary, why do the existing "single bill" alternatives not void the need for an "ESCO single bill" arrangement? The alternatives are:

    - Expand the "single retailer model" used in RG&E's service area statewide;

    - The "utility single bill" arrangement; and

    - The "Billing Agency" arrangement.

3. Even if the "ESCO single bill" arrangement is desirable, why should the Commission require utilities to offer it to ESCOs? Why not leave it to the market to select the best arrangements?

Two additional fundamental questions are:

1. If an "ESCO single bill" arrangement is authorized, when should it be implemented?

2. If an "ESCO single bill" arrangement is authorized, how should billing costs be treated?

Below, each of these questions is discussed, and staff's responses are provided. Staff recommends that the parties be asked to respond to the questions as well as provide comments on the responses offered by staff.

Necessity of "Single Bill" Arrangement

In their responses to staff's November 1998 discussion paper, several parties[1/] indirectly suggested that there is no reason to require consolidated billing. Central Hudson said that it did not perceive major customer demand for single billing and that "implementation of an ESCO single bill option is premature and unnecessary at this time." Con Edison claimed that its voluntary agency billing system has been an adequate and preferable alternative to any "ESCO single bill" arrangement for customers dissatisfied with receiving separate bills. Niagara Mohawk said that the need to pay separate bills has proven "decidedly not a barrier to competition in the commodity" and that many customers would prefer separate bills to single billing that raises overall billing costs.

Numerous parties, however, said that customers do want a single billing arrangement. For example, the Small Customer Marketer Coalition said that it feels a "pressing need" from its customers for single billing. Brooklyn Union commented: "The offering of a single-bill option may make the transition to retail access easier for residential customers and should be pursued." Con Edison Solutions agreed that customers are interested in a single bill. In short, all of the commenting

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[1/] The parties that provided comments to Staff's November 1998 paper are identified in Appendix A, with the acronyms used herein defined.

ESCOs and many of the utilities agree that customers would rather receive just one bill instead of two.[1]

We believe that the option for single billing is necessary for the future adequate growth of competition in the utility industry. As part of the staff evaluation of the Farm and Food Processor Pilot Program,[2] ESCOs advised staff of their interest in providing combined bills for both ESCO and utility charges. Further, 62% of the customers surveyed by staff in the pilot program preferred combined bills,[3] while only 12% preferred separate bills. ESCO and customer interest in combined bills has also been evident at the meetings that staff has had with ESCOs and gas marketers. While some larger industrial customers have indicated preferences for maintenance of separate bills (<u>e.g.</u>, see MI's comments),[4] residential customer groups have indicated interest in receiving single bills from either the utility or the ESCO. Preliminary results from a staff survey of Con Edison retail access customers have confirmed the pilot findings. Approximately 90% of the respondents that indicated they currently receive separate bills say that they dislike that arrangement, most of them indicating that the retail access

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[1] Some of the utilities prefer the "utility single bill" arrangement to the "ESCO single bill" arrangement.

[2] Case 96-E-0948, Petition of Dairylea Cooperative Inc. to Establish an Open-Access Farm and Food Processor Electricity Customers, <u>Order Establishing Retail Access Pilot Programs</u>, (issued June 23, 1997).

[3] Two-thirds of these customers indicated a preference for the combined bills to be issued by the utility company and one-third preferred bills to be issued by ESCOs.

[4] MCI interpreted the Staff November 1998 paper as advocating a mandatory ESCO single billing system as the sole allowed billing arrangement. It objects to the effect of the change on its members' relationships with the T&D utility that provides delivery service. MI says that its members need a direct relationship with the T&D utility. MI says its members need to deal directly with the utility on matters of: commencing, maintaining, and terminating service; safety-related issues; storm restoration; the scope of service options; reliability issues; and billing disputes.

savings were not worth the inconvenience and extra expense of having to pay separate bills.

"ESCO Single Bill" Versus Other "Single Billing Options"

If one accepts the premise, as we do, that there is a strong customer preference (at least for small usage customers) for single bills, the next fundamental question becomes: why don't the existing "single bill" alternatives (i.e., RG&E's "single retailer model", the "utility single bill" arrangement, and the "Billing Agency" arrangement) not void the need for an "ESCO single bill" arrangement?

"Single Retailer Model"

Under the "single retailer model," the ESCO purchases the delivery services from the utility on a wholesale basis and provides all of the end use customer's services, taking over many of the utility's retail functions (e.g., service initiation), including the provision of a single bill for all services. The ESCO is the utility's customer, purchasing distribution service and transmission service at rates regulated by the Commission and FERC, respectively.

In comments on staff's November 1998 paper, Metromedia and the CPB advocated statewide adoption of the RG&E single retailer model. CPB argued that this model would diminish the security concerns raised by the utilities with regard to ESCO single billing, with further economies owing to the ESCO performing all retail services. It suggested that the "ESCO single bill" arrangement could be used as a transition to the "single retailer model".

NFG views adoption of a "single retailer model" as premature; the company:[1]

- asserts, based on its experience, that ESCOs are not ready to handle customer inquiries;

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[1] As noted previously, NFG offers its marketers the opportunity to bill for both commodity and delivery charges. NFG's arrangement is essentially an "ESCO single bill" arrangement, not the "single retailer model" discussed here.

- sees legal impediments such as application of HEFPA protections and POLR rules; and

- sees open issues of costing and administration.

Con Edison (in its reply) opposes mandatory implementation of the model:

> This is not the proper forum for advocating the replacement of the legal relationship between utilities and their customers or the basic premises under which utility service is provided. The rate and service issues associated with effecting such a change are considerably broader and more complex than the billing matters ...

NYSEG also opposes mandatory implementation of the RG&E "single retailer model" because the model is fundamentally different than the competitive models negotiated in all the other restructuring settlements, and, therefore, would jeopardize the legitimacy of those agreements. RG&E itself says that it would be improper to impose its model on the others.

ESCOs may also have concerns about the "single retailer model." For instance, it can mean absorbing the utility's risks of nonpayment for the delivery services, without having the utility's power to threaten termination of electric service.

Staff believes that the "single retailer model" with its single bill system, could accelerate the onset of robust retail competition faster than would occur with the dual retailer model, even with "ESCO single billing" (particularly for small usage customers). The clear distinction between wholesale and retail functions would represent a significant step forward. With only one name on the bill, the ESCO would not be competing with the utilities for brand recognition and retail customers. Further, in performing a wider range of functions, the ESCOs would have the opportunity to provide valuable added services that customers may desire and perhaps to prepare themselves to serve as a provider of last resort or default provider in the future.

Although staff is concerned that imposing the "single retailer model" on the other utilities at this time could be inconsistent with Orders addressing their restructuring settlements, it may be advisable to examine the "single retailer model" further to determine whether it is the best model for promoting competition in the long run. "ESCO single billing" can be viewed as possibly a transitional step toward adopting the "single retailer model," as CPB proposes, allowing the utilities to begin downsizing their customer service operations now.

"<u>Utility Single Bills</u>"

Utilities could modify their billing systems such that a consolidated bill reflecting both utility and ESCO charges could be rendered. Indeed, some utilities currently do bill for ESCOs with some charging for this service. NYSEG considers the "utility single bill" arrangement far superior to the "ESCO single bill" arrangement. After arguing that the "ESCO single bill" arrangement would avoid few utility costs, NYSEG says:

> a utility single bill would be more cost-effective, avoid system redundancies and protect utilities and customers from undue credit exposure.

Staff agrees that "utility single billing" can be an attractive arrangement, particularly for small ESCOs entering the market.[1/] The staff proposal would allow ESCOs and utilities to agree voluntarily to such an arrangement. The "utility single bill" arrangement, however, raises substantive questions about the appropriate role of regulated entities in a competitive environment. We believe that it is important for the ESCOs to develop brand identification. Finally, we do not want to encourage significant additional investments made in customer information systems that could later become stranded costs.

[1/] As noted previously, the Staff survey of customers in the Farm and Food Processor Pilot Program indicated a preference for single bills to be issued by utility companies instead of ESCOs. This result is not surprising, given the customers' familiarity with utility billings and their lack of experience with ESCOs.

"Billing Agency"

Con Edison suggested in its comments on the November 1998 staff paper that the status quo permits easy achievement of "ESCO single billing" through "Billing Agency" arrangements, which are voluntary for utilities, ESCOs, and customers.[1] Con Edison "has been permitting ESCOs to act as their customers' billing agent." Unfortunately, Con Edison's implementation of agency billing exposed customers to the risk of paying the same bill twice if an ESCO defaulted on its payment to the utility. That exposure, however, was eliminated in the Uniform Business Practices Orders.[2] The result is that "Billing Agency" is now, in a practical sense (if not a legal sense), nearly the same as "ESCO single billing," aside from the mandatory elements in staff's proposal.

CPB and NYSEG oppose "Billing Agency" if it entails customer risk. Furthermore, such a risk would likely deter many of those customers who insist on single billing from switching to an ESCO, thereby retarding the progress of competition.

While we support use of the Billing Agency arrangement, it raises questions about the relationships of the parties involved (e.g., the "Billing Agent" is the agent of the customer, not the utility; as such, the legal relationship between the utility and the ESCO is unclear). Furthermore, it is not offered universally throughout the State, and some parties have expressed concerns about the conditions Con Edison has attached to its offering. An "ESCO single bill" arrangement would ensure that single billing is available for use by all ESCOs and their customers.

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[1] Con Edison's point was supported by O&R, which calls ESCO single billing a "costly and premature diversion of resources" needed to implement retail access.

[2] Case 98-M-1343, Retail Access Business Rules, Order Adopting Uniform Business Practices and Requiring Tariff Amendments (issued January 22, 1999), Opinion No. 99-3 (issued February 16, 1999).

Optional Versus Mandatory ESCO Single Billing

Even given the drawbacks to the other "single bill" options discussed above, why require utilities to allow ESCOs to provide single bills? Why not simply confirm that it is an acceptable option and let the best options emerge from the market? After all, utilities are free right now to outsource their billing to whomever they choose, and ESCOs are free to negotiate such arrangements.

Along these lines, several commenting parties want the Commission's rules to be neutral and symmetrical between ESCO and utility single billing. Some parties advocate letting the market participants freely choose billing arrangements, with no "governmental intrusion" at all. Orange and Rockland, in particular, claims that the staff proposal would limit customer choice by making the "ESCO single bill" arrangement mandatory.

In its reply, however, NESPA noted that the free market alone cannot achieve ESCO single billing in cases in which the utility refuses to allow it -- only the Commission can compel the utilities to allow ESCOs to choose this option. Similarly, NEV argues that the Commission should enable customers to choose among the options of utility single billing, ESCO single billing, or two bills.

Orange and Rockland is mistaken in claiming that the staff proposal would reduce customer choices by somehow making ESCO single billing mandatory for customers. For those who favor free customer choice without mandates, the response is that the staff proposal allows voluntary arrangements between ESCOs and utilities, as well as between customers and ESCOs (ESCOs would be free to choose billing arrangements designed to appeal to target customers). The only mandate is on the utilities, and that mandate is to allow ESCO single billing to be among the billing options available to ESCOs and customers, provided that the ESCOs can meet certain requirements. Therefore, staff's proposal is aimed at increasing market choice.

Staff concludes that utilities (other than RG&E) should be required to allow "ESCO single billing" in addition to the "two bill" arrangement and any voluntary arrangements they may wish to offer. Qualified ESCOs should have an opportunity to offer any of the arrangements available, whether for some or all of their customers. The comments suggest that, without a mandate, some utilities might refuse to offer the "ESCO single billing" arrangement, in part from concern about additional stranded costs. Creation of stranded costs, however, will depend on the manner in which the costs are unbundled. That issue is discussed below in the section "Allocation of Billing Costs."

Timing of Implementation

When should the "ESCO Single Bill" arrangement be implemented? Staff recommends that the "ESCO single bill" arrangement be implemented in coordination with implementation of measures in other related proceedings (i.e., those addressing competitive metering, uniform business practices, the electronic data interchange mechanism, unbundling, and perhaps the provider of last resort responsibility). If staff's proposal is adopted, the utilities should be required to file, by October 1, 1999, unbundled tariffs in accordance with the provisions of staff's proposal. The specific date of implementation can be established when the Commission acts on staff's billing proposal after the comment period expires. By that time, more definition will be available as to the status of the related proceedings. The parties should be asked to comment on the feasibility of implementation during the first quarter of 2000.[1/]

Treatment of Billing Costs

If an "ESCO single bill" arrangement is adopted, how should billing costs be treated? Some parties argue that an "ESCO single bill" arrangement will not result in any avoided

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[1/] Because NFG currently allows its marketers to bill for the delivery charges, it should be allowed to continue in that mode until the Commission establishes the implementation date. NFG should, however, file any necessary changes to its tariff on October 1, 1999 at the time the utilities are required to file.

costs for utilities and, in fact, could result in additional costs for them. Thus, they would not increase the back-out credit or reimburse ESCOs for the ESCOs' costs for billing for the utilities. Some parties argue that the billing costs to be removed from delivery rates should be based on embedded costs of the utilities, and others suggest that long-run avoided costs should be used. Because of the extensive existing billing systems of the utilities, the short run avoided cost of billing would be low,[1] and it would be difficult for competitors to beat the utilities' short run avoided costs during the early implementation stages of competitive billing. Using a long run avoided cost may better facilitate market entry. To allow firms that can bill more efficiently than the utilities in the long run to enter the market under more favorable conditions, and to help open the market for competitive services, staff proposes that long-run avoided costs for such services be used to establish back-out credits for billing.

A rigorous determination of such costs for each utility, however, could be a lengthy and labor intensive task. Accordingly, staff proposes to expedite this issue by requiring that the utilities' tariffs, to be filed on October 1, 1999, use a proxy amount for the long-run avoided costs until the utilities can develop more accurate estimates.[2] Staff proposes, for now, that the billing back-out credits of the utilities be set at the utilities' costs of service (derived from their most recent cost of service studies if more rigorous determinations cannot be completed by October 1, 1999) for the billing functions to be transferred to the ESCOs under the "ESCO single bill" arrangement. Adjustments can be made at the time more accurate long-term avoided costs are determined, to the extent

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1/ Niagara Mohawk argues that a "critical mass" is necessary before savings can be achieved. It says that there will be a revenue loss associated with a static expense level and lost revenue associated with any increased back-out credit.

2/ The parties should comment on how long-run avoided costs should be defined and determined.

appropriate. Utilities may petition for recovery or reimbursement of any documented net differences between actual avoided costs and the proxy amounts required here and for any net incremental costs for implementation of this new billing arrangement, to the extent permitted by their individual restructuring Orders. Of course, any such petitions should show that the utility has taken all reasonable steps to mitigate such costs.

STAFF PROPOSAL[1/],[2/]

Summary

Under this proposal, qualified ESCOs would be assured of the opportunity to provide end-use customers with single consolidated bills for both utility and ESCO charges. Both electric and gas utilities would be required to allow ESCOs to perform the functions listed below, for some or all of their customers, if the ESCOs so request and meet the performance standards and other requirements listed below. This requirement would not preclude ESCOs and utilities from agreeing upon other billing arrangements, such as utility consolidated billing or dual billing.

Competitive Billing Functions

In view of the comments received on the November 1998 paper, staff has narrowed the list of billing functions that a utility must permit an ESCO to perform for some or all of its customers to:

- Print and mail consolidated bills;
- Print standard utility bill messages (up to 200 characters) and or distribute suitable bill

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1/ Nothing in this proposal is intended to interfere with the "single retailer model" arrangements in place in RG&E's service territory. As RG&E and Joint Supporters note, those who have invested in it should not now be put at a disadvantage.

2/ Parties should be encouraged to comment not only on the overall staff proposal but also on its components and on alternatives that might be feasible.

inserts provided by the utility (not to exceed one-half ounce in weight);

- Receive and process payments;
- Apportion and remit the utility portion of amounts collected;[1] and
- Provide payment details by account to the utility.

The utilities would be responsible for calculation of their own charges, maintenance of their own accounts receivables, collection action on their own past due accounts, handling inquiries about their charges and their notices, commencement and termination of services, and adherence to all HEFPA-related responsibilities. Utilities and ESCOs, however, could enter into agreements where the ESCO would perform some or all of these functions so long as the utility retains ultimate responsibility.

Performance Standards

ESCOs who want to render, or continue to render, consolidated bills would have to meet and maintain certain performance standards. These standards, which should be set forth in more detail in utility tariffs, require demonstrations that:

- the ESCO has met the testing requirements for sending and receiving data in compliance with EDI standards (when such requirements are established);
- the ESCO's bill format clearly segregates ESCO charges from utility charges;
- the ESCO's bills meet the "plain language" and "clear and easy to read" standard specified in the March 3 order;
- the ESCO's bill content meets the requirements set forth in Appendix B;

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[1] Partial payments on consolidated bills will be applied first to utility charges (because service may be terminated if utility bills are not paid).

- the ESCO is capable of printing and mailing bills within two calendar days of receipt of utility data;

- the ESCO can post payments to customer accounts within one business day of receipt; and

- the ESCO's rate of billing errors is reasonable[1/] (following commencement of consolidated billing).

<u>Financial Security Arrangements</u>

ESCOs' billing on behalf of utilities can impact a utility's financial risk even though they may be acting as agents for the utilities. There may be an increase in the lag between reading the meter and receipt of the bill by the customer, so bills may be paid later. Also, the utility portion of customer receipts may not be remitted promptly or could be apportioned incorrectly. Further, an ESCO may be slow in billing, or may enter bankruptcy (freezing monies owed to the utility). To mitigate this increased risk, utilities and ESCOs could select among four options. Utilities would not be allowed to bill or attempt to collect again from customers who had already paid defaulting ESCOs.[2/]

Option 1: <u>The ESCO would be subject to late payment charges, creditworthiness standards and/or requirements for deposits or letters of credit</u> similar to those that the Commission established for Billing Agencies in its Order on Uniform Business Practices, except that the amount of any required security for the delivery charges would be one-half the amount that would be required for Billing Agencies.[3/]

[1/] Parties should comment on what they would consider to be a "reasonable rate of billing errors".

[2/] Utilities may petition for recovery of prudent and verifiable losses, provided they have attempted to mitigate such losses to the extent practicable.

[3/] The reduced security requirement is to recognize that the utility would have civil recourse against the ESCO as its agent; under "Billing Agency," the ESCO/Billing Agent is the customer's agent.

Option 2: Customer payments are directly received and processed by a creditworthy third party payment processing agent (essentially a lockbox arrangement; no delivery charge security deposit would be necessary).

Option 3: The ESCO would purchase a utility's accounts receivable (at a negotiated discount; no security deposit would be necessary for the delivery charges).

Option 4: The ESCO would make daily scheduled payments based on the utility's receivables.[1/] The sum of the scheduled payments (which would be based on estimates) could be reconciled periodically with actual collections, at the end of the month, for example. A delivery charge security deposit equal to one day's worth of the utility's receivables to be billed by the ESCO would be required.

Under all but the third option, the ESCO would be acting as the utility's agent and the utility portion of the consolidated bill would have to meet the current regulatory requirements pertaining to content of bills as summarized in the attached Appendix B. In addition, payments for utility charges could not be considered overdue nor late payment charges assessed on residential accounts until 23 days had elapsed from the date the bill is mailed to the end use customer. Further, termination notices and deferred payment agreement offers associated with the utility's charges on consolidated bills rendered by the ESCO would have to conform to the procedures set forth in 16 NYCRR Sections 11.4 (Termination of Service), and 11.10 (Deferred Payment Agreements). Aside from bill content requirements and the mailing of customer notices, other HEFPA related responsibilities would rest with the utilities (e.g., physical termination of service).

For Option 3 (ESCO purchase of accounts receivable), the consolidated bill would not have to conform to HEFPA as the customer cannot be denied service from the utility for failure to

[1/] This option was suggested by NYSEG.

pay the distribution charges because the utility will have already been paid for the distribution service by the ESCO.

For Options 1,2 and 4, ESCOs would be required to print on the consolidated bill and/or enclose as an insert certain text messages or customer notices required of utilities by current regulations.[1]

Billing Costs

Ultimately, utility costs avoided by ESCO billing would be unbundled on a long-run avoided cost basis. Until such costs are developed, the back-out credits should reflect the utilities' costs of service for the billing functions to be transferred to the ESCOs. The utilities would file tariff revisions to reflect these avoided costs. The Initial filings would be due by October 1, 1999.

CONCLUSION

To address ESCO and customer preference for single bills and to enhance competitive opportunities, staff recommends that the Commission issue a notice that it is considering adoption of the staff proposal described herein, which would require utilities to allow ESCOs to perform certain billing functions for both utility and ESCO service, providing the ESCOs meet certain requirements.

STAFF RETAIL ACCESS BILLING ISSUES TEAM

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[1] Current regulation does not prescribe the manner in which notices should be provided to customers, i.e., in a text message on the bill, as a bill insert, or in a separate mailing. Accordingly, the current practice varies by utility and type of notice. For ESCO consolidated billing, the preference is to have the ESCO conform to the utility's current practice rather than mandate a specific method for all notices/messages.

APPENDIX A

Parties Commenting on Staff's November 1998 Paper

Brooklyn Union Companies (Brooklyn Union)
Central Hudson Gas & Electric Corporation (Central Hudson)
Con Edison Solutions
Consolidated Edison Company of New York, Inc. (Con Edison)
New York State Consumer Protection Board (CPB)
New York State Department of Economic Development
Joint Supporters and its Member KeySpan Energy Services, Inc. (Joint Supporters)
Multiple Intervenors
Iroquois Energy
Metromedia Energy, Inc. (Metromedia)
National Energy Marketers Association
National Fuel Gas Distribution Corporation (NFG)
NEV East, L.L.C.
New York Energy Service Providers Association (NESPA)
New York State Electric & Gas Corporation (NYSEG)
Niagara Mohawk Power Corporation (Niagara Mohawk)
NorAm Energy Management, Inc.
Orange and Rockland Utilities, Inc. (Orange and Rockland)
Rochester Gas and Electric Corporation (RG&E)
Public Utility Law Project of New York
Small Customer Marketer Coalition
Statoil Energy, Inc.
Competitive Energy Strategies Co.
Local 1-2, Utility Workers Union of America
AFL-CIO and Local 97, International Brotherhood of Electrical Workers

APPENDIX B

BILL CONTENT
REQUIREMENTS FOR CONSOLIDATED BILLING

The format of the consolidated bill should be designed such that the Utility's charges can be clearly distinguished from the ESCO's charges.

The Utility's Portion of the Consolidate Bill

The content of the section pertaining to the Utility's charges and its messages must continue to conform to HEFPA. Accordingly, the following data elements must be displayed on the Utility's section of a consolidated bill:

For All Bills:

- the utility name and a telephone number to call (at the utility) for billing inquiries regarding the utility's charges;
- the customer's name, address, service classification and account number;
- the date the most recent payment was received or the date through which any payments have been credited, and the debit or credit balance carried over from the prior bill, if any;
- the amount of any late payment charge applied during the current billing cycle;
- an explanation of how (or where) the bill may be paid;
- messages and information pertinent to the service being provided, such as the initial, or modifications to, terms of deferred payment or budget billing plans, disconnect notices, public safety notices, etc.

For Metered Service Bills:

- the registered demand for every demand meter, whether or not the customer is currently subject to a demand charge;
- the indices being used to calculate the bill, whether they are based on an actual reading of the meter, a remote register, a customer provided reading, or are estimated, and if estimated, the reason therefor;

- the meter multiplier or constant for each meter;
- the next scheduled meter reading date.

<u>For Unmetered Service Bills</u>:

- a clear statement that the bill is for an estimated amount of service utilized but not metered;
- the per day or other basis used for calculating the amount of service billed.

<u>For Residential Bills (in addition to above)</u>:

- dates of the present and previous meter readings;
- whether the meter readings are estimated or actual;
- amount consumed between present and previous readings;
- amount owed for the latest period,
- the date by which payments for the latest period may be paid without a penalty;
- the penalty charge for late paid bills;
- credits from past bills and any amounts owed and unpaid from previous bills;
- the billed demand;
- any charges or credits that are adjustments to the base charges imposed by the utility's tariff for the rate classification of that customer.

<u>For budget billing plans, the following additional information must be displayed</u>:

- the total of the budget bills rendered from the beginning of the budget plan year to the end of the period covered by the current bill;
- the amount of the difference between the two;
- the debit or credit balance.

For Non-Residential Bills (in addition to above):

- the address and location of the premises where the service was supplied;
- the unit of measurement;
- an explanation of any calculations or factors used in calculating a charge(s);
- an explanation of any abbreviation or symbol used that is not common English usage.

The ESCO's Portion of Consolidated Bills

With respect to the level of detail that should be provided for the ESCO's charges and its messages on consolidated bills, the Commission has previously expressed its expectation that "ESCO customers ... receive the billing equivalent in accuracy to what they would receive from the traditional regulated utility."[1] Accordingly, the intent of the proposed minimum content requirements for the ESCO portion of consolidated bills, shown below, is to ensure that customers' bills meet this standard.

- Display the name of the ESCO;
- Display the ESCO account number for the customer;
- Display taxes as a separate line item;
- Display price per unit and number of units for each product or service;
- Display the telephone number to call (at the ESCO's offices) for billing inquiries;
- Display the date the bill was rendered;
- Display the date payment is due and how [where] payment may be made;
- Display text messages (subject to an agreement between the utility and ESCO);
- Display the period in which the charges were incurred, e.g., for the month of February, from 2/1 to 2/28, etc.

[1] Case 96-E-0898, Order Regarding the Regulatory Regime for the Single Retail Model, issued December 24, 1997, page 19.