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THE E CUBED COMPANY, L.L.C.

September 12, 2003
Via Fax, hardcopy and
Email

Providers of
Strategic Energy
Services At
The Exponential
Interface Among

- Energy
- Economics and
- Environment

Ruben S. Brown,
M.A.; M.A.L.D.,
President

Jaclyn A. Brillling
Acting Secretary to the Commission
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

*ORIG-FILES
C02-E-0780 ETAL
24 COPIES DRS
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Re: Cases 02-E-0781/0780 Consolidated Edison Company of New
York/Orange and Rockland Company – Response to Con Edison
Companies Petition of Clarification

Dear Secretary Brillling:

Thank you for authorizing an extension to permit filing these comments
by fax today and by hardcopy over the weekend and by the distribution to active
parties by email by the close of business today.

Attached please find a response and request for further clarification by the
Joint Supporters to the August 28, 2003 Petition for Clarification by the Con
Edison Companies to the Commission's Order addressing the Standby Rates for
their Companies.

Very Truly Yours,



Ruben S. Brown, M.A.L.D.
Christopher S. Young
The E Cubed Company, LLC
For The Joint Supporters

Cc: Hon. Rafael Epstein (by email)
Active Parties (by email)

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

- Case 02-E-0781** - Proceeding on Motion of the Commission as to Consolidated Edison Company of New York, Inc.'s Electric Tariff Filing to Establish a New Standby Service in Accordance with Commission Order Issued October 26, 2001 in Case 99-E-1470s
- Case 02-E-0780** - Proceeding on Motion of the Commission as to Orange & Rockland Utilities, Inc.'s Electric Tariff Filing to Establish a New Standby Service in Accordance with Commission Order Issued October 26, 2001 in Case 99-E-1470

**Joint Supporters' Response to Consolidated Edison
Petition for Clarification**

Introduction

On August 27, 2003 Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc. (together, "Con Edison") filed a Petition for Clarification of the Commission's Order of July 29 in the above-referenced proceeding (the "Petition"). While Petition is a valid effort to clarify the terms of the Order, several points merit further clarification lest the Order, and the record of this proceeding, become inadvertently altered or blurred. In particular, Joint Supporters seeks to further clarify two issues. First, the date defining "existing customers" appears to have been inadvertently entered incorrectly in Con Edison's tables. Second, we wish to further clarify the Order's provision of permanent exemptions for new projects entering service in the next three years, with respect to what constitutes a "new project". In addition to seeking these clarifications, Joint Supporters also urges the Commission not to accept Con Edison's suggested clarifications numbered 1 and 4, so as not to establish perverse incentives that would undermine State policy and the Commission's stated intent.

Joint Supporters concurs with Con Edison that it should not be caused to install metering equipment that would never be used, and concurs with Con Edison's suggested changes 2, 3 and 5.

Date Delineating "Existing Customers" Is January 31, 2003

Paragraph 4 of the Joint Proposal, which was attached to the Order as Attachment A, clearly states, "Existing customers are defined as customers operating on-site generation (OSG) and taking standby service from the utility as of January 31, 2003..." [Emphasis added.] However, suggested clarification #4 and both tables in Con Edison's Petition refer to "Existing customers' taking service at standby rates as of 1/1/03." Because the Order refers to pre-existing customers and the phase-in simply in terms of "January 2003," at pages 12 and 18, some confusion is understandable. But the general expression in those contexts should not override the specific date set forth in the negotiated settlement that was incorporated into the Order. If the Commission otherwise accepts the Petition, the relevant dates should be reaffirmed as "1/31/03."

Existing OSG Customers Installing New Designated Technologies

The Order at 17 states, "small, efficient CHP will be eligible for permanent exemption from standby rates if the project enters service in the next three years." Similarly and consistently, Con Edison's tables indicate that "Customers with designated technologies, On-line on or after effective date of rates and before 6/1/06," have the option of Non-Standby Rate.¹ Joint Supporters agrees, and requests additional confirmation that existing OSG customers who invest in and install new OSG projects within three years of the Order that meet the Commission's eligibility criteria for permanent exemption shall in fact have that option.

Such a clarification is consistent with the Commission's decision that "the possible public benefits of the diverse generating technologies addressed in the Proposal should be acknowledged by modifying its terms"² by including efficient CHP in the ¶12 technologies and establishing the permanent exemption for projects in operation by May 31, 2006. It is also consistent with the Commission's acknowledgement that the May 31, 2006 deadline "will serve the public's interest in adding distributed generation capacity before the peak summer cooling season."³ Furthermore, the Order consistently

¹ In the chart on Pg. 5 of the Petition, this box is in the first column, the third box up from the bottom of that column, and marked with "x".

² Order at 17.

³ Order at 19. The language used the Commission does not reference customer status in terms of existing or new, but Con Edison's confusing footnote 3 seems to contradict the Order by introducing that idea.

refers to projects becoming eligible for permanent exemption, not customers; the point is to facilitate the development of desirable technologies, not to limit the options available to existing users of OSG.

Existing Customers Already Using Designated Technology

The Commission should reject Con Edison's suggestion #1 regarding customers who qualify both as "existing customers" and as customers with designated technology. Customers that qualify for both phase-in provisions should be treated according to the provisions applicable to ¶12 technologies. The prospective effect on new installations of the technologies that the Commission has designated⁴ should rightly trump the retroactive protection of existing customers, particularly considering that existing customers would not be harmed by such treatment whereas Con Edison's proposed limitation may harm customers with designated technologies.

If a framework that recognized customer choice is the Commission's objective, it also could simply allow such customers to choose which phase-in provision to use.

Treatment of Projects Installed Between January 2003 and July 29, 2003

Simply because an OSG owner had the chronological misfortune of making his or her OSG system operational between 1/31/03⁵ and 7/29/03 should not preclude that owner from rate options available to OSG owners whose systems became operational before or after it. Thus, Con Edison's suggested clarification #4 should be rejected, and instead any projects that came on line during the referenced six months should be treated as if they came on line July 30, 2003. The tables in the Petition do not seem to describe this category of customer; whatever the Commission decides about them if a similar table is used such customers should be clearly included in it.

⁴ And that the Commission is in the process of designating—PSC staff and NYSERDA staff are creating standards regarding highly efficient CHP.

⁵ Con Edison stated the date as 1/1/03, but this should be reverted to 1/31/03 per discussion above.

Conclusion

Putting a complicated new rate structure into service involves much work and planning, and unanticipated transition issues unavoidably will arise. Joint Supporters appreciates Con Edison's effort to clarify the process and reduce the uncertainties facing both the utility and the OSG and CHP community. However, Con Edison's errors of interpretation should not become precedent in the record of this proceeding, and the Commission should explicitly reject the suggested clarifications identified herein, in order to make the final implementation smoother and more rational for all market participants.

Respectfully signed,

/s/

Christopher S. Young
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On behalf of Joint Supporters

Dated:
September 12, 2003
New York, NY

PENDING PETITION MEMO

Date: ~~6/17/2002~~ 8/28/2003

Files
TO : Office of ~~Electricity and the Environment~~
FROM: CENTRAL OPERATIONS
UTILITY: ORANGE AND ROCKLAND UTILITIES, INC.
SUBJECT: 02-E-0780, 02-E-0781

Proceeding on Motion of the Commission as to Orange and Rockland Utilities, Inc. to Electric Tariff Filing to Establish a New Standby Service in Accordance with Commission Order issued October 26, 2001 in Case 99-E-1470.

PETITION FOR CLARIFICATION OF THE COMMISSION'S ORDER ISSUED JULY 29, 2003, FILED BY CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. AND ORANGE AND ROCKLAND UTILITIES, INC.



RECEIVED
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2003 AUG 28 AM 10:15

Sara Schoenwetter
Assistant General Counsel

August 27, 2003

Hon. Jaclyn A. Brillling,
Acting Secretary
State of New York Public
Service Commission
Three Empire State Plaza
Albany, NY 12223

RE: Case 02-E-0780 Orange and Rockland Utilities, Inc.
Case 02-E-0781 Consolidated Edison Company of New York, Inc.

Dear Secretary Brillling:

Enclosed please find an original and 25 copies of a Petition for Clarification submitted by Consolidated Edison Company of New York, Inc., and Orange and Rockland Utilities, Inc. in the above-referenced proceedings.

A copy of this letter and the petition is being served on the parties to these proceedings by US mail and email.

Sincerely,

c: Service List 02-E-0780/-0781

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

- Case 02-E-0780 - Proceeding on Motion of the Commission as to Orange and Rockland Utilities, Inc.'s Tariff Filing to Establish a New Standby Service in Accordance with Commission Order Issued October 26, 2001 in Case 99-E-1470.
- Case 02-E-0781 - Proceeding on Motion of the Commission as to Consolidated Edison Company of New York, Inc. Electric Tariff Filing to Establish a New Standby Service in Accordance with Commission Order Issued October 26, 2001 in Case 99-E-1470

PETITION OF CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. AND
ORANGE AND ROCKLAND UTILITIES, INC. FOR CLARIFICATION

The Public Service Commission (the "Commission") approved, with modifications, a Joint Proposal regarding rates to be charged by Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc. (collectively referred to as the "Companies") for standby service. Cases 02-E-0780/-0781, Order Establishing Electric Standby Rates (July 29, 2003) (the "Standby Rates Order"). In this order, the Commission approved and expanded the categories of customers not required to pay standby rates, either temporarily or permanently. Customers with on-site generation would be required to pay standby service rates unless they qualify for the exemptions, phase-ins, and waivers provided in the Joint Proposal and the Standby Rates Order.

The Companies respectfully request clarification of the order with respect to implementation of such customer elections and rate exemptions. With this request for clarification, the Companies propose a framework that recognizes customer choice to the extent intended by the Standby Rates Order while minimizing customer confusion.

The following table summarizes the categories of customers and rates that may be applicable to their service. The table illustrates that some customers may qualify in more

than one category and be eligible to elect service under one of several options. It is not clear whether all these options represent real choices for customers or what rate would apply if a customer does not make an affirmative choice. Furthermore, it is not clear how the Commission intended that the Companies treat customers who commence service before the effective date of the rates, but who would either be exempt or eligible to elect exemption from standby service rates.

[balance of page intentionally left blank]

Options apparently permissible under the Standby Rate Design Guidelines and the Standby Rates Order:

(Options Available on and after effective date of rates, about 2/1/04)	Non-Standby Rate	Standby Rate with Phase-in		Standby Rate without Phase-in
		Existing Customer (a)	Designated Technology (b)	
Con Edison SC 1, 2, 7, and 12 (energy only); O&R SC 1 and 2 (non-demand billed only)	x			
Customers with maximum monthly demands of 50kW or less whether or not in any other category	x	x	x	x
Customers with OSG capable of serving 15% or less of maximum potential load ¹	x			
"Existing customers" taking service at standby rates as of 1/1/03 ²		x	x	x
Projects defined as "existing customers" and listed in Appendices C and D of the Joint Proposal and coming on-line before 6/1/06 and using a designated technology ³	x	x	x	x
New customers without designated technologies and not listed in Appendix C or D coming on line after effective date of rates				x
Customers with designated technologies				
On-line on or after 1/1/03 and before effective date of rates		x	x	x
On-line on or after effective date of rates and before 6/1/06	x	x	x	x
On-line after 5/31/06 and before c. 2/1/09			x	x
On-line after 1/31/09				x

(a) Existing customers as defined in the Joint Proposal, including projects listed in Appendices C and D coming on line before 6/1/06.

(b) Designated technology as defined in footnote 3 below.

¹ For Con Edison, this exemption was effective as of August 7, 2003. For O&R, this exemption will become effective on and after the effective date of the new rates.

² Con Edison's current backup (SC 3) and supplementary (SC 10) service rates allow customers that are Qualifying Facilities under the Public Utilities Regulatory Policies Act or state law to request service at firm conventional rates but any other customer commencing operation of OSG between the date of the order and the effective date of the rates would be obligated to take service under existing standby rates until the exemption option became effective. Under O&R's current electric rate schedule, customers that are Qualifying Facilities under the Public Utilities Regulatory Policies Act or state law are permitted to take back-up or supplemental service under the service classification for which the customer would otherwise qualify. Non-qualifying facilities are required to take back-up or supplemental service under Service Classification Nos. 9 or 22 of the O&R electric rate schedule. Any customer commencing service between the date of the order and the effective date of the new rates (on or about 2/01/4) will be required to take back-up or supplemental service under the currently effective provisions of O&R's electric rate schedule described above until the exemption option became effective. Projects deemed within the "existing customer" category must be on-line by May 31, 2006 to qualify for the phase-in election.

³ For existing customers (including those listed in Appendices C and D), the phase-in period is four years on firm conventional rates and four years at an annually increasing percentage of standby rates. For customers with designated technologies, the phase-in period is five years. The phase-in period is measured from the effective date of the rates (about February 1, 2004). For customers listed in Appendices C and D and new customers with designated technologies, the deadline to begin operation is May 31, 2006. "Designated technologies" are fuel cells, wind, solar thermal, photovoltaics, sustainably managed biomass, tidal, geothermal, or methane waste, and small, efficient types of combined heat and power generation not exceeding 1 MW in capacity, to be specified in greater detail at a later date.

The Companies suggest the following clarifications:

1. Customers who qualify both as “existing customers” and as customers with designated technology should be treated as existing customers for the purpose of the applicable phase-in.
2. Customers qualifying for exemption should be treated as exempt unless they make an affirmative election to be billed on standby rates. The Company should not be required to install interval metering equipment and communications at the premises of customers who may later claim exemption.
3. Customers who are eligible for exemption should not be permitted to elect the phase-in if they elect to be billed on standby rates. The phase-ins were designed to mitigate bill increases for customers required to take service at standby rates. Those customers not required to pay standby service rates do not need the phase-in option. Customers can be expected to elect standby rates if they project lower bills under standby rates than under conventional firm rates.
4. Customers with on-site generation that (a) is not a Qualifying Facility and (b) came on line between the 1/1/03 and 7/29/03, the date of the order, would not be eligible for exemption or phase-in under any category.
5. Customers with on-site generation that (a) is not a Qualifying Facility, (b) came on line between the date of the order and the effective date of the rates, and (c) would be eligible for exemption pursuant to the Standby Rates Order should be permitted to elect exemption at the commencement of standby service to them. The Company should not be required to install interval metering equipment and communications at the premises of customers who may later claim exemption.

These clarifications will aid the Companies in the administration of the new standby service tariffs by establishing default rate options and minimizing utility investment in metering equipment for customers who may, within several months, elect to pay conventional firm rates. The following table illustrates the Companies' proposals:

Proposed options:

(Options available on and after July 29, 2003)	Non-Standby Rate	Standby Rate with Phase-in	Standby Rate without Phase-in
Con Edison SC 1, 2, 7, and 12 (energy only); O&R SC 1 and 2 (non-demand billed only)	x		
Customers with maximum monthly demands of 50kW or less whether or not in any other category	x		x
Customers with OSG capable of serving 15% or less of maximum potential load	x		
"Existing customers" taking service at standby rates as of 1/1/03		x(b)	x
Projects defined as "existing customers" and listed in Appendices C and D and coming on-line before 6/1/06 and using a designated technology	x	x(b)	x
New customers without designated technologies and not listed in Appendix C or D coming on line after effective date of rates			x
Customers with designated technologies			
On-line on or after 1/1/03 and before effective date of rates	x ⁴	x (a)	x
On-line on or after effective date of rates and before 6/1/06	x	x (a)	x
On-line after 5/31/06 and before c. 2/1/09		x (a)	x
On-line after 1/31/09			x

- (a) Phase-in of bill increases over five years beginning 2/1/04. Any customer coming on line during the five-year period and electing the phase-in pays bills calculated using the then current phase-in percentage.
- (b) Phase-in of bill increases over four years beginning 2/1/08.

Without the clarifications requested herein, the Companies and their customers may suffer unintended economic harm, through the requirement for installing unnecessary metering equipment and the payment of existing backup or supplementary service rates until the new standby rates, exemptions, and phase-ins become effective. Therefore, the Companies respectfully request that the Commission address the Companies' clarification requests on an expedited basis by addressing these matters at least 30 days before the Companies' expected early November filing date or by allowing the Companies to file on

⁴ Customers coming on line after any necessary tariff amendment approved by the Commission.

less than 90 days' prior notice but with at least 30 days between the issuance of any order and the filing date.

Dated: August 27, 2003
New York, NY

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S. Schoenwetter', with a long horizontal flourish extending to the right.

Sara Schoenwetter
Attorney for Consolidated Edison Company of
New York, Inc. and Orange and Rockland
Utilities, Inc.
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New York, NY 10003
(212) 460-3143