

**VIA AIRBORNE EXPRESS**

January 15, 2004

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Ms. Jaclyn Brillig  
Secretary  
New York State Public Service Commission  
3 Empire Plaza  
Albany, NY 12228

Re: Case 00-E-0612 – Proceeding on Motion of the Commission to Investigate the Forced  
Outage at Consolidated Edison Company of New York, Inc.'s Indian Point No. 2  
Nuclear Generating Facility.

Dear Secretary Brillig:

Please find attached Consumer Power Advocates' (CPA) comments on the above referenced case. CPA represents several major New York City energy consumers whose budgets will be directly impacted by the settlement proposed in the case.

Respectfully submitted,

Catherine M. Luthin  
Principal, Luthin Associates, Inc.

ASC/eg  
Enclosures  
cc: file

## **I. Introduction**

On March 30, 2000, the Commission issued its Order Instituting Proceeding to Investigate Outage at the Indian Point No. 2 Nuclear Generating Facility. On December 2, 2003, the parties submitted a Joint Proposal purporting to settle all issues in this proceeding. Consumer Power Advocates (CPA) has articulated below our comments in support of this settlement and offer recommendations for a more effective use of the funds allocated for consumers.

## **II. Background**

On Feb. 15, 2000, an incident involving a leak in the Indian Point II steam generators led to the shutdown of the facility. Consolidated Edison was forced to purchase replacement power to make up for the unavailability of the facility and subsequently passed on the additional costs to ratepayers. In the aftermath of the outage, various questions emerged as to whether Consolidated Edison may have been negligent in its maintenance and management of the facility. Irrespective of that issue, the State Legislature passed and the Governor signed a law prohibiting Con Ed from recouping these additional costs from ratepayers. On December 2, 2003 the parties proposed a settlement requiring the refund of all such replacement power costs collected in the aftermath of the Feb.15, 2000 incident and other outages involving numerous issues going back a decade or more.

## **III. Comments and Recommendations**

- Consumer Power Advocates (CPA) believes that the proposed settlement represents a reasonable solution for mitigating the excessive costs borne by consumers as a result of the prolonged shutdown of the Indian Point No. 2 Nuclear Generating Facility.
- The \$45,456,337 settlement amount is fair and commensurate with the costs associated with the power replacement.
- CPA agrees that the refund should be apportioned on a usage basis and that the refund should be reflected as a credit to the Market Adjustment Clause (MAC). However, we recommend that the amount of the refund be listed as a separate line item on the energy bill to allow transparency concerning the actual amount of the settlement refund.
- We agree with the directive that Consolidated Edison forego recovery of \$89,543,663 in replacement power costs that were incurred but not recovered from customers following the steam generator outage.
- We support the allocation of \$2,500,000 to fund low-income energy efficiency programs. However, we encourage the implementation of programs that directly reduce the cost of energy to low income consumers and not the funding of yet another load aggregation study as has been suggested by some parties. Previous studies have revealed that low-income aggregation faces

significant implementation challenges, and CPA believes programs that directly assist low-income users, such as energy efficient window replacement, represent a more reasonable approach, and offer far greater value. This is particularly critical at a time when skyrocketing energy prices strongly impact low-income households.

Consumer Power Advocates hereby submits these comments and appreciates the Commission's consideration of our viewpoint and recommendations.

Date:

Respectfully submitted,

Catherine M. Luthin  
Principal, Luthin Associates, Inc.