

January 13, 2006

Ms. Jaclyn A. Brillling
Secretary
Public Service Commission
3 Empire Plaza
Albany, New York 12223

Re: Case 03-E-0641-Proceeding on the Motion of the Commission Regarding Mandatory Hourly Pricing

Dear Ms. Brillling,

On behalf of Consumer Power Advocates (CPA), I offer these comments and request clarification of the draft tariff leaves filed by Consolidated Edison Company in the above referenced case. CPA is an association of large, non-profit institutions whose primary goal is to decrease the cost of energy by focusing on regulatory decisions and programs which impact energy consumers in New York City. Many CPA members are individual members of the NYISO Management and Business Issues Committees and, as such, have developed expertise and knowledge of the NYISO's Day Ahead Hourly Market which is the basis of the draft rate filing. Consumer Power Advocates believes that the proposed tariff provisions do not adequately implement the intention of the commission for the following reasons:

The required time of posting DAM prices is too late to allow meaningful response.

The clear intent of Mandatory Hourly Pricing is to allow customers to respond to hourly price signals, as determined in the NYISO Day Ahead Market (DAM). Unfortunately, the draft filing does not require Con Edison to post DAM rates until 4 PM the day before they become effective. This is far too little time to expect customers to respond on a daily basis. Most operating employees work a typical 7 AM to 3:30 PM work day, and even managers often arrive before 7 AM and leave by 5 PM. A clear precedent can be found in the NYISO Special Case Resource (SCR) program which recognizes this issue by requiring 24 hour advisory notice prior to a demand response event (and makes significant payments to ensure that response). A daily requirement to respond to DAM prices is burdensome and may cause additional costs to customers by extending the work day of managers and analysts into late evening hours.

At minimum, Con Edison should post prices by 1 PM. The NYISO DAM prices are posted by 10 AM every day and any adjustments Con Edison must make are routine and should be accomplished in far less than 6 hours. Late posting effectively gives our members only 5 or 6 regular business hours to make changes in the actual operations of their facilities. It is clear that the greater burden here has been placed on customers, and the DAM posting time should be adjusted to recognize that fact.

Customers will experience increased difficulty verifying bills.

Even in its current form, the Con Edison tariff is extremely complex, requiring specialized, proprietary software to verify bills. The current MSC for TOD bills includes energy rates for

off-peak and on-peak service. DAM pricing will replace this with over 700 rates each month for energy alone, requiring the development of new software and processes to verify the accuracy of bills.

The tariff does not provide for an estimating method in the event of missing data.

Our experience has been that interval meters frequently fail, resulting in missing usage data. The proposed tariff does not offer a remedy for this situation. In order to ensure that the customer is billed fairly in the event of such data loss, the lowest peak period DAM price should be used during the peak period, and the lowest hourly price for the day should be used during the off-peak period. If more than 8 intervals are missing, the entire day should be billed at the monthly MSC rates.

Customers may not be able to respond to DAM prices for a considerable period of time.

CPA members have invested heavily in demand side management programs. However, these programs have been optimized for average peak period rates. The type of controls, information systems and management policies required to respond to DAM prices on an hourly basis do not currently exist. Development of programs to adequately address hourly pricing will not be complete by Con Edison's suggested effective date of May 2006. Implementing these tariffs before those controls are in place will expose customers to the risk of significant price spikes without the corresponding price responsiveness that the Commission desires. This is particularly true if extended periods of hot weather cause NYISO markets to experience several or more days of shortage pricing. We urge the Commission to delay implementation of mandatory real time tariffs by approximately 12 to 18 months to allow customers time to develop the tools and processes necessary to properly manage such a change.

The meaning of the term of service must be clarified.

Currently, the Term of Service for voluntary DAM pricing is one year, and customers who take that service must remain on that rate for at least one year. Moreover, customers who discontinue that service may not return to it for at least one year. These requirements have been carried over to the Mandatory Hourly Pricing draft tariff. The current tariff gives customers the option to contract with an ESCO for supply at any time and return to full service at any time. The Commission should clarify that this opportunity remains in the draft MHP tariff.

Respectfully submitted,

ss/Catherine M. Luthin

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Executive Director
Consumer Power Advocates

CPA Member Institutions

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