

May 23, 2008

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

RE: Case 07-E-0523- Con Edison's compliance filing regarding access to the
Retail Access information System

Dear Secretary Brillling:

The Company's implementation plan does not comply with Commission's requirement to provide customer access to the RAIS system contained in its order of March 27, 2008 in the above captioned case, and in fact weakens protection against unauthorized release of confidential or proprietary information.

The Company provides a description of the RAIS system. To briefly summarize, RAIS access is provided by a secure, password protected website. The website includes three sections: "Capacity and Energy Issues", Account Information and Billing History Lookup," and "Download." The download area includes files of hourly consumption information that is useful to analyze the cost of providing supply service, and is therefore valuable to customers on evaluating competitive offers. The Company has proposed to allow access without a password to the first two sections, but refuses to comply with the Commission's Order by allowing access to the download area. CPA objects to both the proposed modifications and Con Edison's refusal to allow customers to download heir own account information.

First, the "modifications to the RAIS website" are unreasonable. The first modification is to allow access without a password to limited areas of the website. In effect, the Company would allow access to anyone with access to the customer's account numbers. In the case of firms that operate large numbers of buildings, that could be a relatively large group, notably including the employees of both the customer and the customer's ESCO and their agents. In effect, it creates a new class of valuable commercial information that disgruntled employees may carry to new employers or sell covertly. The second modification to the RAIS system proposed by the Company is to add certain account specific information to the "Account Listing File." While this information is valuable, it would be provided on a "per account basis" only, which severely limits its usefulness for customers, some of whom maintain hundreds or even thousands of accounts.

While the Company states that this access is "...equivalent to the information that ESCOs receive...", nothing could be further from the truth. Electronic access to

data, and the ability to download and analyze that data efficiently, is the essence of the issue in this case. All of the Company's objections to this genuine access are specious, and can be resolved simply by applying the same procedures to customers and their agents as it already applies to ESCOs. Nevertheless, we provide the correct responses to the questions (*italics added*) posed by the Company:

- *What automated communication method would be used to allow non-ESCOs to create a customer list?*

Answer: The identical communication method as used by ESCOs could be used by customers. Any customer could be registered in the same way as an ESCO, and manage its account as an ESCO would.

- *Should the authorization a customer provides an energy consultant for access their customer records need to be documented and submitted to the utility? How would these authorizations be tracked?*

Answer: The Company currently requires authorization by customers to allow agents access to confidential data. These arrangements should remain, or if they are not currently adequate, they should be improved, regardless of whether the Company complies with the Commission's order to allow access through the RAIS system. Alternately, the Company could issue passwords only to the principal account holder, who could distribute that password at his or her pleasure.

- *Should an account only be allowed to have one designated account representative receiving customer information through the RAIS? How should the system respond to requests from different consultants, each claiming authorization to view a single account? Would a request for a customer's information from a second consultant be deemed to override any previous authorizations?*

Answer: The Company should allow access by any customer principal, or any authorized agent.

- *How would customers be notified that an energy consultant submitted a request to receive an automatic download of their account information? Would a period for the customer to rescind the authorization need to be made available to the customer?*

Answer: This concern should be resolved in exactly the same way that it is resolved in the case of an ESCO that requests confidential data.

- *What would the ramifications be for energy consultants who request an automatic download of a customer's information without proper authorization?*

Answer: This concern should be resolved in exactly the same way that it is resolved in the case of an ESCO that requests confidential data without proper authorization.

- *How would customers ensure that when they change their authorized energy consultant, the consultant would no longer automatically receive their customer information through the RAIS?*

Answer: Again, this concern should be resolved in exactly the same way that it is resolved in the case of an ESCO that requests confidential data.

- *Who would enforce non-ESCO business rules, and handle complaints between energy consultants and customers regarding unauthorized access to customers' information?*

Answer: This is not the Company's concern, provided that it does not allow unauthorized access. The Company has given no credible reason to suggest that it is any more difficult to authorize customers' agents than it is to authorize ESCOs. In the unlikely event of an unauthorized release of information by Con Edison, the Company should disclose the circumstances of this release and provide evidentiary support for any action the customer wishes to pursue.

Con Edison goes on to assert that "equivalent" hourly consumption information is available on the Con Edison DMS website. This is simply not the case. DMS allows information only by single accounts, while RAIS aggregates groups of accounts. This is a critical functionality for customers who operate large numbers of accounts. Some firms in New York operate hundreds or even thousands of Con Edison accounts. For these customers collating individual account information, which must be obtained from four different sources, is a laborious and time consuming task. Such a process is subject to error and requires additional oversight. All this adds cost and delay to the evaluation of competitive offers, and uncertainty to the accuracy of those evaluations. Customers require the same efficient access to information by the automated processes enjoyed by ESCOs if they are to analyze competitive offers effectively. Anything less unnecessarily disadvantages the customer in the negotiation of supply contracts. The Company's proposal would needlessly undermine the development of an efficient market, which requires this equal access to information.

Con Edison has offered no justification to deny this functionality of the RAIS system from customers, beyond the administrative effort of providing it. Indeed, by offering this information in functionally inferior formats, and by providing it to ESCOs without customer permission, it has made a lie of its stated concern for confidentiality.

CPA has answered all the objections raised by the Company, and for all the above reasons we request that Con Edison's response here be rejected, and that the Company be ordered to comply with the Commission's Order of March 27 in the above case by allowing full customer access to the RAIS system.

Respectfully submitted,

ss//Catherine M. Luthin

Catherine M. Luthin
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Consumer Power Advocates