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October 23, 2003

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

Re: Case 03-M-0640- Proceeding on the Motion of the Commission to Investigate Potential Electric Delivery Rate Disincentives Against the Promotion of Energy Efficiency, Renewable Technologies and Distributed Generation.

Notice of Intervention and Comments of *Consumer Power Advocates*

Dear Secretary Brilling:

On behalf *Consumer Power Advocates*, I am writing to intervene in the above captions case. *Consumer Power Advocates* is a non-profit associate of large energy purchases, all of whom are customers of the Consolidated Edison Company of New York (Con Edison). Is such, it has in interest in this case.

Comments of *Consumer Power Advocates*

Since all the members of *Consumer Power Advocates* are customers of Con Edison, they have experience with mechanisms variously known as "revenue decoupling," ERAM or "revenue cap."

Background

A brief history of ERAM is instructive. When ERAM was first implemented, the Commission was understandably reluctant to commit itself to approving constant increases in allowable revenues in order to cover the inevitable inflation of operating budgets. Utilities responded by negotiating permission to defer excess expenses. Over time, the combination of predetermined revenues and deferred expenses made income statements into virtual *pro forma* documents describing the results sought by the Commission, and balance sheets became the only meaningful indicator of a utility's financial condition. After a combination of inflation and lower than expected sales, the promised recovery of these balance sheet costs resulted in unacceptable rate impacts. ERAM thus became part of the proverbial "failed policies of the past."

Our members fully support the goals of conservation and energy efficiency. Through participation in NYSERDA programs, through the market-based programs of the NYISO and through private initiatives, they continue to conserve and to optimize their energy use. The unnecessary use of administrative revenue protection for regulated utilities, which already enjoy "just and reasonable" revenue adequacy, will not enhance our efforts at conservation.

Incentives Targeted to Customers Rather than Utilities

Rather than providing an absolute revenue guarantee to utilities, a better approach is to provide genuine incentives for customers to participate in demand reduction programs. Reliable service is a utility's principal business responsibility, while energy conservation is only one concern among many competing for customers' resources. Direct application of targeted incentives directly to customers will always be necessary to insure the optimum level of participation by customers and to reduce the first cost of implementation. The current incentives to participate in NYISO's EDRP, DADRP and SCR programs are in large part illusory due to market realities and the current environmental regulatory scheme. They should all be enhanced by funding programs for the capital improvements that are necessary to participate. Low cost funding should likewise be made available for improved lighting, conversion to gas or steam air conditioning, and for other effective demand side technologies.

Reliable Utilities Are Essential for Economic Growth

Reliable electricity infrastructure is a pre-condition for economic growth, and no community is more dependent on electricity than New York City. Regulatory programs which attempt to blunt the incentive for utilities to provide new services and improve their distribution systems, or which impose the possibility of large out of period revenue recoveries distort management judgments and budgets. Utilities should focus on maintaining reliability, developing appropriate new services, and resist dependence on administrative revenue guarantees.

Conclusion

Nothing has changed to improve the usefulness of ERAM, although much has been done to resolve the concerns that it was formerly designed to address. Rate unbundling has allowed efficient energy markets to determine the price of the largest bill component, and the increased use of demand charges to recover delivery costs have mitigated or eliminated the utilities' risk of short-term sales loss. We urge the Commission to follow the lead of its predecessors, and reject revenue decoupling.

Sincerely,

Catherine M. Luthin
Executive Director
Consumer Power Advocates