

TIME SENSITIVE – IMMEDIATE ATTENTION REQUESTED

July 31, 2007

The Honorable Patricia Acampora
Chairwoman, New York State Public Service Commission
Three Empire State Plaza, 19th Floor
Albany, NY 12210

RE: Case 07-E-0392 – Consolidated Edison - Rider U – Distribution Load Relief Program

Dear Chairwoman Acampora:

This is a request for your assistance with an implementation detail associated with recently approved enhancements to the Consolidated Edison (Con Ed) Enhanced Rider U Distribution Load Relief Program (ERU DLRP, hereinafter “ERU”). This is not a dispute *per se*; all stakeholders want the ERU program to be successful and to come on line as quickly as possible. However, stakeholders working on the final implementation of the Commission’s Order have run into a stumbling block that may undermine the program launch for this year, and severely limit the new program’s potential going forward.

The concern relates to a provision in the tariff requiring the use of interval meters.¹ While use of NYISO-compliant interval meters is acceptable throughout the state for purposes of demand response programs, a question has arisen as to whether Con Ed needs to install its own interval meter before customers can participate in the ERU program. This technical interpretation was not a focal point of the recent proceeding to incorporate design enhancements to Rider U, and received no attention in the proceeding. Nevertheless, it is now apparent that this formerly unremarkable detail will severely limit participation in the new program if not addressed appropriately. Given the sense of urgency to bring demand response resources on line in the remaining summer period, and to make progress with a successful program generally, we thought it best to bring the matter to the Commission to respectfully request expedited attention and resolution.

¹ Rider U, Section (F) Metering: “Each Customer’s entire service must be measured by one or more interval meters, and Customers must maintain any associated pilot wiring in good working order. If the Customer’s service is not measured by one or more interval meters, provided in connection with other Company service requirements, the Customer shall arrange for the furnishing and installation of interval metering with telecommunications capability, and arrange for telecommunications service, at the Customer’s expense, net of any discount or rebate received by the Customer, before the Customer’s application shall be accepted for service under this Rider. Where the Customer contracts for Load Delivery, such delivery must be separately metered.”

Background

On June 20, 2007, the Commission approved enhancements to Con Ed's Rider U Distribution Load Relief Program as part of the Commission's comprehensive response to 2006 power outages in Con Ed's Long Island City Network. The enhanced program leverages participation incentives in the New York Independent System Operator's (NYISO) Special Case Resources (SCR) program combined with a supplemental payment from Con Ed to encourage more demand response resources in Con Ed's service territory. In exchange for the supplemental payment, Con Ed also derives additional benefits from the program in the form of the ability to control and dispatch enrolled demand response resources with much greater frequency and flexibility (e.g., dispatch by location where demand response resources are needed) than is available under the NYISO SCR program.

The Commission's Order acknowledged the need to get the enhanced program up and running quickly in the summer of 2007. In fact, because of this sense of urgency, the Commission rejected an element of the company's original filing which would have precluded enrollments throughout the summer because of the need to enable new demand side resources and sundry other start up issues.²

Meter Integrity

The NYISO SCR Program does not require a utility meter for participation. Instead, a NYISO-compliant meter that records interval data is acceptable for SCR Program purposes. This meter may be installed by the customer, the Responsible Interface Party (RIP) or, alternatively, interval meter data from the local utility may be used. Data from the NYISO-compliant meter is transmitted to NYISO for measurement and verification purposes, as well as for settlement.

We submit that the ERU tariff does not require that a separate utility-owned interval meter be installed where customers utilize NYISO-compliant meters, and that the additional expense and delays associated with installation of a utility-owned interval meter is unnecessary and wasteful. In fact, if a utility meter is a required program element, it will undermine the Commission's objectives in its approval of Rider U enhancements.

Use of NYISO-compliant meters is entirely acceptable throughout the state for demand response programs, including the NYISO SCR program in the Con Ed service territory. It should be pointed out that under the NYISO SCR program, considerably more dollars are at stake in settlements than are at stake through ERU alone. Indeed, NYSERDA has confidence in NYISO-compliant meters owned by the customer or aggregator as an alternative to utility-owned meters. This is evidenced by the fact that NYSERDA commits substantial financial resources to assisting customers with the purchase of NYISO-compliant meters to enable participation in the NYISO SCR program.

²Order at 16

Con Ed is concerned with a clause in the tariff referring to the use of interval meters “in connection with other Company service requirements,” and apparently interprets that clause to mean that a utility-owned meter is required for participation in ERU. We submit that the thrust of the entire section of the tariff is clear that NYISO-compliant interval meters meets the utility’s needs and the requirements of the tariff.

In its July 20, 2007 decision regarding EPACT 2005 implementation in New York, the Commission cited the NYISO EDRP, SCR and DADRP programs as evidence that it has met its obligations under EPACT regarding time-based metering and communications standards under PURPA. If NYISO-compliant metering is sufficient to meet this burden, we submit that it should be sufficient for ConEd as well.³

Con Ed may also be concerned with an additional administrative burden of receiving data from alternative sources than its own meters. With respect to this potential concern, we stand ready to transmit data from NYISO-compliant meters in virtually any format that will ease most or all of any additional burden. The integrity of data should not be a concern because the same data that is already submitted to NYISO will be submitted to Con Ed. If, however, Con Ed wants greater assurance of data integrity, we remain flexible to provide whatever security assurances are necessary, including real time data transmission if that is required.

Another potential concern for Con Ed is that NYISO-compliant meters may not be considered “revenue quality” meters for retail customer billing purposes. Revenue quality meters are not necessary to the successful administration of the NYISO SCR program, and should not give the Commission or Con Ed pause with ERU implementation. For retail billing purposes, the utility-owned meters customers already in use are sufficient for billing purposes. In addition, and perhaps more importantly, settlements under both programs are based upon customer baseline determinations of what customer demand would otherwise be without curtailment efforts.

This is important because customer specific baseline determinations are intelligent estimates of what customer demand would be without curtailment efforts. While the baseline determination is a carefully developed protocol designed to ensure accuracy and eliminate potential for gaming, it is an estimate of customer demand. It must be an estimate, because there is no way to measure exactly what customer demand would be without curtailment. No meter, revenue quality or otherwise, can precisely and exactly accurately measure what customer demand would otherwise have been without customer curtailment efforts.

NYISO-compliant interval meters accurately measure demand response efforts below customers’ baseline within acceptable tolerances, particularly given the nature of the baseline itself; i.e. an intelligent estimate. Since customer payments are based upon a baseline instead of a precise measurement of actual customer consumption, revenue quality meters are not necessary for program administration. Under the ERU program, an

³ / Determination Regarding Implementation of Standards in Case 06-E-0761, July 20, 2007 at 23.

enrolled customer's baseline is determined based upon the APMD methodology that is the same as that utilized in the NYISO SCR program. In short, since payments and verification under both programs are based upon estimates, derived under carefully refined methodologies, requiring revenue quality meters is excessive.

The shadow meters in use now in the NYISO SCR program are more than adequate to accurately measure the level of customer curtailment that is eligible for compensation and ensure that Con Ed receives *bona fide* curtailment from its ERU enrolled customers. The needs of the ERU program are no different and no greater than the needs in the NYISO SCR program. Accordingly, meters that are acceptable in the NYISO SCR program, and supported by ratepayer funds through NYSERDA grant funds, should be acceptable under ERU as well.

Impact of Requiring Use of Con Ed Meters

The immediate impact of requiring the Con Ed meters would be to preclude getting a meaningful program off the ground in 2007, as is clearly desired by the Commission and all stakeholders. Moreover, such a requirement renders participation in ERU dramatically less attractive to customers and demand response aggregators, and as such would undermine the efficacy of the program going forward.

One of the stated goals of the ERU program is to enroll all of the existing Zone J SCR program participants in ERU in order to create more granular distribution system load relief. The objective is to entice customers to participate in both programs. Every additional requirement or difference between SCR and ERU makes this goal more difficult to reach. Each deviation makes the process of educating and selling the additional responsibilities associated with ERU participation more difficult and more expensive. Eventually a threshold is crossed at which it is no longer cost-effective to devote limited sales resources to marketing ERU.

Requiring utility interval meters would create a troublesome utility bottleneck – it can take weeks or months for the utility to complete orders for this type of work. Such delays are absolutely unnecessary. There are hundreds of customer sites in Con Ed's service territory that already have an installed NYISO compliant interval meter and a utility meter that is perfectly adequate for utility billing purposes. These are customers that are already providing reliable demand response to the bulk power system through the NYISO SCR program. If utility interval meters are required as a prerequisite to participation in ERU, these customers will be unable to participate until the utility can dispatch crews to swap out the utility meter. By contrast, without such a requirement, these customers can participate in both SCR and ERU immediately this summer. We submit that the Commission's Order clearly envisions that artificial roadblocks will not be erected to delay or prevent participation.

The requirement will also be wasteful of NYSERDA resources and impose unnecessary costs on customers. NYSERDA provides grant funds to cover most or all of the costs of installing NYISO-compliant interval meters in order to encourage participation in the

SCR program. NYSEERDA is highly unlikely to provide grant funds to purchase a second interval meter so that customers can also participate in ERU as well. This means that the costs of the additional meter will be borne by the customer or aggregator. Requiring the installation of a utility interval meter prior to participation, at the customer's expense, would pose an unnecessary financial barrier to participation.

Finally, if utility owned interval meters are a required program element, demand response aggregators will find participation in ERU unattractive and likely not market or promote ERU to existing or new end use customers. Without demand response aggregators active support, ERU will achieve no better results than the former Rider U program.

Requested Action

We respectfully request that the Commission clarify that the language in the ERU tariff, in Section (F), Revised Leaf No. 158-R, requiring customer measurement through interval meters be understood to mean that measurement may be made from either a NYISO-compliant interval meter, and MSP-installed meter, or a utility owned interval meter.

Sincerely,

Constellation NewEnergy, Inc.

Consumer Powerline, Inc.

E Cubed Development, LLC

Energy Analytics, Inc.

Energy Curtailment Specialists, Inc.

Energy Spectrum, Inc.

EnerNOC, Inc.

The E Cubed Company, LLC

New York Energy Consumers Council, Inc.

Cc: Commissioner Maureen Harris
Commissioner Robert. E. Curry, Jr.
Commissioner Cheryl A. Buley
Hon. Jaclyn A. Brillling, Secretary
James Gallagher, Director, Office of Energy Efficiency and Environment
Thomas Dvorsky, Director of Electricity, Gas and Water
Michael Townsley, Deputy Director, Office of Electricity and Environment,
Christine Colletti, Director of Rate Engineering, Consolidated Edison
Rebecca Craft, Director, Energy Efficiency, Consolidated Edison
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