BEFORE THE
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of

Orange and Rockland Utilities, Inc.

Case 07-E-0949

December 2007

Prepared Testimony of:

Stephen A. Berger
Utility Consumer Program
Specialist 4
Office of Energy Efficiency and
Environment

State of New York
Department of Public Service
Three Empire State Plaza
Albany, New York, 12223-1350

Q. Please state your name, title, employer, and business address.

A. Stephen A. Berger, Utility Consumer Program Specialist 4. I am employed by the New York State Department of Public Service. My business address is Three Empire State Plaza, Albany, New York 12223-1350.

Q. Mr. Berger, please briefly state your educational background and professional experience.

A. I received a Bachelor of Science degree (1975) and a Master of Science degree (1987) from the Rensselaer Polytechnic Institute in Troy, New York. I am a member of the national mathematics honor society, Pi Mu Epsilon. From 1979 until 2001, I was employed by the New York State Consumer Protection Board in various positions, ultimately as Associate Utility Rates Analyst. From 2001 through the present, I have been employed by the Department.

Q. Please briefly describe your current responsibilities with the Department and previous responsibilities with the Consumer Protection Board.

A. In my work with the Department of Public Service I have been responsible for analyzing a number of policy issues, including stand-by rates for distributed resources, utility commodity hedging portfolios, renewable portfolio standards, purchase of receivable (POR) programs, advanced and competitive metering, cost allocation and rate design, unbundling of utility services, unbundled utility bill formats, and implementation of changes to the Home Energy Fair Practices Act (HEFPA). In my previous position with the Consumer Protection Board, I was responsible for analyses related to competitive energy and telecommunications policy, cost recovery, sales forecasts, revenue allocation, rate design, utility consumer protections, as well as other issues.

Q. Have you previously testified before the Commission or other regulatory agencies?

A. I have submitted testimony in over 50 energy-related proceedings before the Commission on numerous topics including: management and executive compensation, forecasting, revenue allocation, rate design, standby rates, unbundling and other issues related to retail competition. I have prepared formal comments before the Federal Energy Regulatory Commission and Federal Communication Commission. I also served as co-chair of one of the four main committees in the 00-M-0504 Competitive Markets Proceeding and participated in and contributed to the other three committees. I am currently participating in the Energy Efficiency Portfolio Standards working groups.

Q. What is the scope of your testimony in this proceeding?

A. My testimony will address unbundling of competitive services, including the merchant function charge (MFC), the purchase of receivables (POR) discount rate, the bill issuance and payment processing (BIPP) charge and the unbundled bill format.

Q. In your testimony, will you refer to, or otherwise rely upon, any information produced during the discovery phase of this proceeding?

A. Yes. I will refer to, and have relied upon, responses to Staff Information Requests. Copies of those are attached as Exhibit__(SAB-1).

Q. Have you reviewed Orange and Rockland's unbundling of competitive services?

A. Yes. I have examined the Company's proposals for unbundling and find them generally sound; however, I am recommending some adjustments that I will discuss shortly.

Q. Describe how the Company arrived at the competitive services rates?

A. The Company generally followed the unbundling orders and policy of the Commission and also continued some adjustments that have been part of its current rates.

Q. Do you agree with the unbundled competitive services rate components proposed by the Company?

A. With some of them, yes. For example, in pages 20 and 21 of his prefiled testimony, Orange and Rockland witness Atzl has proposed to increase the unbundled charge to suspend service from $19.00 to $27.00 and maintain the current unbundled charge to calculate a bundled bill at $3.75. I do not have an issue with these proposals. I reviewed the Company's proposals for metering charges, as noted on page 7 of his prefiled testimony, and agree with Witness Atzl’s proposal to convert current metering back-out credits to service charges, increased by the percentage increase to delivery rates.

Q. Do you disagree with any of Orange and Rockland’s unbundling proposals?

A. Yes. In pages 4 and 5 of Company Witness Atzl’s testimony, he proposes to continue a bifurcated merchant function charge (MFC) where the “credit and collection related MFC component” would be paid by all retail access customers billed on consolidated bills by Orange and Rockland. The other component of the MFC contains commodity procurement; information resources (IR), education and outreach, and uncollectibles associated with commodity and would only be paid by customers purchasing their commodity from Orange and Rockland.

Q. Why does the Company propose to maintain a two component MFC and continue to bill an MFC for retail access customers?

A. When Orange and Rockland bills for both its delivery service and the commodity of another provider (energy services company or ESCO), it does so under a purchase of receivables (POR) of the ESCO at a discount. That POR discount currently does not include an adjustment for credit and collections. To recover these expenses from ESCO customers, Orange and Rockland has split the MFC into two components, both of which are merchant related, but only one of which is not charged to retail access customers on Company consolidated bills.

Q. Does Orange and Rockland agree that these are credit and collection expenses directly related to commodity supply?

A. Yes. As indicated by Orange and Rockland's response to interrogatory DPS-34, which is shown on page 4 of Exhibit____(SAB-1), the Company agrees that the costs included in the MFC component for credit and collections is designed "to recover the costs associated with supply-related credit and collections activities."

Q. Do you agree with this proposed MFC split and the related cost recovery in the proposed POR discount?

A. No. I propose that Orange and Rockland merge the two MFC components into a single MFC, and that the single MFC and POR discount both be calculated by including the commodity-related credit and collection costs. This MFC charge should only appear on the bills of Orange and Rockland's full service customers.

Q. Why should the Company's MFC and POR discounts be treated as you propose?

A. The basic premise underpinning the retail provision of commodity is that the ESCO is providing all the services and performing all of the functions of a retail merchant and assumes all functions and risks related to commodity service. For this reason, the commodity price or rate charged by utilities should reflect the full cost and related risks of providing these services. By charging only full service customers the "credit and collection related MFC component," as well as the costs contained in the other MFC component, the ESCO becomes responsible for addressing these costs and including them in its price.

In the POR process, the ESCO is subcontracting with the utility to perform certain functions that otherwise would be performed by ESCO back office personnel, including credit and collections activities. Therefore, the POR discount should be calculated to reflect all the commodity-related activities that the utility will be performing on behalf of the ESCO. This is designed to fully reimburse the utility for the costs that would otherwise be borne by the ESCO to do these functions for themselves.

Q. Would it be appropriate to keep commodity-related credit and collection costs within Orange and Rockland’s delivery rates, rather than in the utility commodity supply costs and then recover them from the ESCOs in a POR discount?

A. No. This is essentially the same result achieved by the Company’s proposal to have two components of the MFC. To do this distorts the retail price to customers of the commodity, which has been artificially lowered to exclude credit and collection expenses. Moreover, it would create disincentives to ESCOs to develop their own systems. This is because their commodity prices would appear to be above those of ESCOs who rely on the utility to do this work for them.

Q. What is the effect on the customer of the Company’s proposals?

A. Under the Company’s proposal, the MFC appears on both retail access and non-retail access customers’ bills. Yet it contains costs solely related to commodity service and would have to be explained to inquiring customers that way. This would certainly be confusing to those customers.

Q. In what other way does the Company’s proposal affect customers?

A. Taken together, the price of electricity combined with the MFC only provides a comparable price for customers who are comparing prices with ESCOs not using Orange and Rockland’s consolidated billing service, since those served on consolidated bills will still be charged a portion of the MFC. Yet, as shown on pages 1 and 2 of Exhibit____(SAB-1), Orange and Rockland stated in its response to DPS-30 that most residential and many non-residential customers do receive utility consolidated bills for competitively provided supply service. For them, the MFC charge would be confusing prior to enrollment and afterwards as well.

Q. How does your proposal address this concern?

A. If the MFC on the full service bill remains the same, containing both components as currently calculated, yet no MFC ever appears on a retail access consolidated bill, then the commodity price would reflect the true retail price of the commodity supply and all customers could use this value in comparing offers from competitors. ESCOs using the Company’s consolidated billing would pay Orange and Rockland for performing the credit and collections function for their customers and those ESCOs billing customers directly would handle their own credit and collections.

Q. Would your proposal require recalculation of the MFC and POR discount?

A. The current MFC for full service customers would remain the same, but no separate component portions of it would need to be calculated as the credit and collections MFC component would no longer be used on any bill. However, the POR discount would have to be recalculated to include credit and collections.

Q. Do you have that calculation?

A. I did not perform a calculation, but in response to Staff discovery DPS-41 shown on page 6 of Exhibit _____(SAB-1), Orange and Rockland calculated the POR discount under my proposal to be 1.41%, however, this number is based on the Company’s revenue requirement and has not been adjusted to reflect Staff’s proposed revenue requirement.

Q. What policy has the Commission established for bill issuance and payment processing or BIPP charges?

A. The Commission has addressed this issue twice, once in regard to billing credits in the Billing Proceeding in an order issued in Cases 98-M-1343 and 99-M-0631 on May 18, 2001 and again in the Competitive Opportunities Case – Unbundling Track, Case 00-M-0504, the order issued on February 18, 2005. In both cases, the Commission ruled that the customer should only pay a utility for BIPP service when receiving both commodity and delivery from the utility for all commodity services taken. When the customer receives a consolidated bill from the utility (a bill that includes ESCO charges), the utility should collect a billing fee equal to the amount of the BIPP charge from the ESCO or ESCOs. Where a single ESCO serves the customer for either all commodity or one of two commodities taken, it still is required by the Commission to pay the entire BIPP fee. In this instance the customer should not be charged by the utility for billing services. Where there are two ESCOs serving the customer, one for electricity and one for natural gas, the ESCOs would each pay half of the BIPP fee and again the customer should not be charged by the utility for billing services.

Q. Do you have any concerns related to Orange and Rockland's application of these Commission policies?

A. No. In examining the Company's proposal for BIPP charges, it appears that the Company is proposing to conform the electric BIPP charges to the Commission's decision in Case 05-G-1494. Further, as shown on page 5 of Exhibit____(SAB-

1), in response to DPS-37, Orange and Rockland confirmed that there would be a single account level BIPP charge on its full service customer bills. As shown in the Company’s response to DPS-36, shown on page 4 of Exhibit _____(SAB-1), retail access customers would not pay this charge if a dual service customer took competitive supply service for either one or both of the two commodities purchased, as long as they were served by a utility consolidated bill. In that same response, it further clarified that ESCOs serving a retail access customer would either pay the entire BIPP fee or split it where two ESCOs serve the same customer on an Orange and Rockland consolidated bill. These proposals are in compliance with applicable Commission orders mentioned above.

Q. Do you have any comments about the unbundled bills filed by the Company in Exhibit____(E-11), Schedule 4?

A. Yes. Due to my proposal to eliminate the MFC credit and collections component as a separate charge for all customers, including retail access customers, the bills labeled Retail

Access Residential and Retail Access Non Residential would no longer have the lines on them that pertain to this charge. Further, while Orange and Rockland did not provide the bill definitions that accompany these bills, these definitions would require examination and possible revision due to the change in the MFC.

Q. Will the proposed rates for competitive services need to be reviewed and possibly revised based on the final revenue requirement approved by the Commission?

A. Yes, the Company will need to reflect the final rate year revenue requirement approved by the Commission in its revisions to rates for competitive services.

Q. Does this conclude your testimony at this time?

A. Yes.

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Office of Energy
Efficiency and
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Three Empire State
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Albany, New York,
12223-1350

Orange and Rockland Utilities, Inc.
Case: 07-E-0949

Response to DPS Interrogatories – Set DPS3
Date of Response: September 25, 2007
Responding Witness: W. Atzl

Question No. :30
Please provide work papers supporting the calculation of percentage of kWh Applicable to RA Customers Receiving Two Separate Bills shown in Column 3, page 8 of 46 of your work papers

RESPONSE:

See attached.

ORANGE & ROCKLAND UTILITIES, INC.

Rate Design Workpapers

Retail Access Usage (kWh) by Billing Option - 12 Months Ended June 2007

Class	kWh Utility Single Bill Option	kWh Usage 2 Bill Option	Total Retail Access	% Utility Single Bill Option	% Two Bill Option	Total
SC1	484,964,390	101,713	485,066,103	99.98%	0.02%	100.00%
SC19	41,032,215	2,459,716	43,491,931	94.34%	5.66%	100.00%
Total Res	525,996,605	2,561,429	528,558,034	99.52%	0.48%	100.00%
SC2	283,936,728	71,621,260	355,557,988	79.86%	20.14%	100.00%
SC20	13,548,321	2,308,759	15,857,080	85.44%	14.56%	100.00%
Total Sec	297,485,049	73,930,019	371,415,068	80.10%	19.90%	100.00%
SC3	134,961,505	49,964,150	184,925,655	72.98%	27.02%	100.00%
SC21	16,325,400	3,563,700	19,889,100	82.08%	17.92%	100.00%
Total Pri	151,286,905	53,527,850	204,814,755	73.87%	26.13%	100.00%
Total Sec & Pri	448,771,954	127,457,869	576,229,823	77.88%	22.12%	100.00%
SC9 Com Pri	71,578,550	68,272,512	139,851,062	51.18%	48.82%	100.00%
SC9 Com Sub	0	71,251,142	71,251,142	0.00%	100.00%	100.00%
SC9 Com Trans	4,731,300	0	4,731,300	100.00%	0.00%	100.00%
Total SC9 (Com)	76,309,850	139,523,654	215,833,504	35.36%	64.64%	100.00%
SC22 Mfg Pri	53,079,950	64,583,270	117,663,220	45.11%	54.89%	100.00%
SC22 Mfg Sub	14,563,500	1,732,500	16,296,000	89.37%	10.63%	100.00%
SC22 Mfg Trans	0	34,736,700	34,736,700	0.00%	100.00%	100.00%
Total SC22 (Mfg)	67,643,450	101,052,470	168,695,920	40.10%	59.90%	100.00%
Total SC 9 & SC 22	143,953,300	240,576,124	384,529,424	37.44%	62.56%	100.00%
SC4	11,575,802	0	11,575,802	100.00%	0.00%	100.00%
SC5	2,191,795	65,609	2,257,404	97.09%	2.91%	100.00%
SC 16 -dusk-to-dawn	1,771,408	8,592	1,780,000	99.52%	0.48%	100.00%
SC 16 - energy only	1,378,150	630,228	2,008,378	68.62%	31.38%	100.00%
SC16 - Total	3,149,558	638,820	3,788,378	83.14%	16.86%	100.00%
Total Lights	16,917,155	704,429	17,621,584	96.00%	4.00%	100.00%
SC 25						
Rate 1	0	0	0	0.00%	0.00%	0.00%
Rate 2	0	0	0	0.00%	0.00%	0.00%
Rate 3	0	0	0	0.00%	0.00%	0.00%
Rate 4	0	0	0	0.00%	0.00%	0.00%
Total SC 25	0	0	0	0.00%	0.00%	0.00%
West Point	0	0	0	0.00%	0.00%	0.00%
Total	1,135,639,014	371,299,851	1,506,938,865	75.36%	24.64%	100.00%

Orange and Rockland Utilities, Inc.
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Response to DPS Interrogatories – Set DPS3
Date of Response: September 26, 2007
Responding Witness: M. Nihill

Question No. :34

1. Other than consistency with the Gas JP, is there any other reason why O&R believes that two MFCs, one for credit and collections and one for competitive supply, are necessary? Please make the assumption that the POR discount rate would also include credit and collections.
2. Is it correct that the credit and collections included in the MFC also "supply related?" 3. How are the MFCs to be presented on the customer's bill? Are there two MFCs one of which appears in the commodity supply portion of the bill and one which does not?
4. With two MFCs as described above, how is the customer informed which is part of the Company's commodity price to compare with other offers?

RESPONSE:

1. The Company has not proposed two MFCs. However, the Company has proposed separate MFCs for full service customers and retail access customers whose energy service companies participate in the Company's Purchase of Receivables Program. The MFC applicable to full service customers reflects a competitive supply-related component and a credit and collections-related component. The MFC applicable to retail access customers whose energy service companies participate in the Purchase of Receivables Program reflects only the credit and collections-related component (See testimony of William A. Atzl, Jr. pages 4-5).
2. Yes. The credit and collections-related component of the MFC is to recover the costs associated with supply-related credit and collections activities.
3. Please see Exhibit 11, Schedule 4. Only one MFC will appear on a customer's bill.
4. Please see the response to Part 1 above.

Orange and Rockland Utilities, Inc.
Case: 07-E-0949

Response to DPS Interrogatories – Set DPS3
Date of Response:
Responding Witness:

Question No. :36

1. How will the new $1.02 billing and payment processing BPP charge be applied to customers and ESCOs?
2. Is it your intention that, for combination electric and gas customers, when a consolidated bill for either one or both commodity services provided by an ESCO is issued the customer will not pay the BPP charge and that either one ESCO will pay that amount or two ESCOs will split the fee?
3. If not, please explain how the billing credit used to work for combination customers ESCOs and why this should be applied differently now.

RESPONSE:

1. See proposed 12th Revised Leaf No. 16G filed in the above referenced case (Tab No. 1 of Volume 1 of the Company’s direct case filed on August 10, 2007).

2. Yes.

3. NA

Orange and Rockland Utilities, Inc.
Case: 07-E-0949

Response to DPS Interrogatories – Set DPS3
Date of Response: September 25, 2007
Responding Witness: W. Atzl

Question No. :37
1. How will the new BPP charge appear to customers on their bills? Will there be a single BPP charge on all bills at the account level?
2. If not, please explain why that would not be the case.

RESPONSE:

Please see Exhibit E-11, Schedule 4. Yes, a single BPP charge will appear on the bill.

Orange and Rockland Utilities, Inc.
Case: 07-E-0949

Response to DPS Interrogatories – Set DPS3
Date of Response: October 5, 2007
Responding Witness: J. Quin

Question No. :41
What would be the new value for the POR discount for electric if supply credit and collections were included in the calculation? Assume that the MFC for credit and collections theft is merged with the MFC for procurement and the total is avoided by customers enrolling with ESCOs in answering the question. Please provide a breakdown of all components of this all-inclusive POR discount.

RESPONSE:

The new value for the POR discount for electric supply if supply credit and collections were included in the calculation would be 1.141% which consists of the following:

36-month uncollectible rate for all residential and commercial electric and gas customers eligible for retail access:	0.309%
20% risk factor	0.062%
Uncollectible POR Discount	0.371%
Credit and collections adder	.770%
Total Adjusted POR Discount	1.141%