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January 13, 2006

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CASE 03-E-0641 – Proceeding on Motion of the Commission
Regarding Expedited Implementation of Mandatory Hourly Pricing for Commodity
Service – Comments on November 21st filing by Consolidated Edison Company of
New York

The New York Energy Consumers Council, Inc. generally supports Con Edison's response to the ruling issued by the Public Service Commission on September 23, 2005 expediting implementation of Mandatory Hourly Pricing for Commodity Service. We remain fully committed to the need for improved management of electric demand on our local electrical distribution system and concur that Hourly Pricing of electrical service can offer compelling market-based incentives for achieving very desirable results. At the same time, however, many of the concerns we shared with you when this proceeding was initiated in 2003 continue to resonate with our membership. We do not believe that Con Edison's filing adequately addresses the critical issues set forth in our comments below.

We remain convinced that Hourly Commodity Pricing for retail customers can only be effective when all three of the following components are clearly viable:

- Customers must have easy real-time access to their own load profiles to understand their own actual consumption and demand requirements. Although technologies supporting such access have continued to improve, we remain concerned that the majority of consumers who will be facing the impact of the proposed mandate are not yet equipped with the technology they would require in order to monitor their electric use on a real-time basis. Even many of the customers who ostensibly do have access to such technologies are not yet trained to acquire and manage the information they secure effectively.
- Customers must have clear and unambiguous information on the actual hourly market prices that they will be paying for the product that they are using. Although the New York Independent System Operator currently provides this information in a readily accessible on-line environment, many of our region's actual consumers, including those facilities managers responsible for monitoring and controlling energy-consuming equipment in large commercial and institutional properties, are still not equipped with the technology and the training necessary to monitor and understand market conditions and prices and relate those prices with their own consumption profiles.

"Educating Energy Consumers Toward Economical Energy Options"

- Customers must be well-trained and fully capable of adjusting their loads in response to the dual impacts of their own load conditions and their clear understanding of the market conditions. This last factor is particularly troubling for many of our members who own and/or manage large multi-tenant commercial properties. The ability to respond to market signals requires the ability to control electrical equipment in tenant spaces. Such control would, in turn, require the installation of advanced metering technologies in each such individual space. Not only is the installation of such equipment a significant incremental cost exposure, owners who choose to install such equipment will also be required to assume responsibility for maintaining and calibrating such meters. This issue grows exponentially more complicated and expensive in light of the requirement to maintain maximum tenant flexibility in such buildings. One year a single floor may have multiple tenants. Another year the same floor may become only part of a multi-floor tenancy. Such retrofits will require a commitment to incremental build-out expenses to accommodate tenant requirements. Although this is not in itself an insurmountable requirement, it further aggravates the capacity of landlords to manage complex tenant electrical loads. It would also create the potential for significant reorientation of New York's extraordinary real estate community where comparative rental costs traditionally include energy costs. Ultimately, of course, individual tenants would presumably retain the right to use electricity as they choose. If such tenants choose to ignore the price signals transmitted by the hourly market, landlords could be exposed to the market impact of such decisions. This same concern applies to various specialized multi-tenanted institutions as well – including hospitals and even hotels. Although the terms of those tenancies are generally significantly shorter, each represents the same conundrum. Patterns of individual energy consumption within facilities are established by individual tenants, also known as patients or hotel guests, who are unlikely to be positioned or inclined to respond to the market signals driven by hourly pricing constraints.

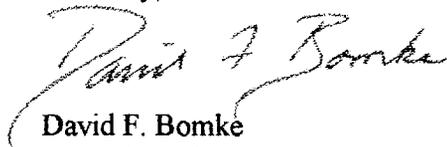
We remain concerned that the implementation of mandatory hourly pricing without first satisfying all three of the above foundational components threatens to become a recipe for failure. The New York Energy Consumers Council offers its pledge of support to assist with the education and training of all of the consumers in Con Edison's largest customer classes. We offer our commitment to helping consumers secure the metering equipment necessary to allow them to monitor their own load profiles on a real time basis. As noted in previous testimony on this subject, we would urge the Commission to require utility companies to provide sample billing of the impact of hourly commodity pricing on actual customer loads for at least one year prior to implementing mandatory retail hourly pricing. In all fairness, such sample billing should only be implemented when affected consumers have already been provided with all of the tools necessary to monitor their actual loads, to understand applicable pricing, and to adjust consumption accordingly.

We would urge the Commission to encourage utility companies to ensure that customers who would be facing such mandatory hourly commodity pricing be equipped with the metering technology that would enable those customers to monitor their actual loads before implementing sample billing. We would invite utility companies to work with the PSC-approved Meter Data Service Providers, if necessary, to provide such services to ensure that all customers targeted by this order will be properly equipped with the technologies necessary to monitor their loads within the next 12 to 18 months. Finally, we would encourage the Commission to empower NYSEERDA to implement aggressive training programs to ensure that all consumers will be adequately armed with the solutions necessary to respond to hourly price signals.

Frankly, despite our strong support for the concept of Hourly Commodity Pricing, we would urge the Commission to delay implementation of mandatory Hourly Commodity Pricing tariffs until the suggestions proposed above could be effectively implemented. Absent all of these components, consumers will be far too likely to curtail energy at times that could be most damaging to their operations and use energy at times that would be most damaging to the system's capacity.

Further, although New York's very mature retail electric market is already presenting customers with a broad array of purchasing options, we recognize that some retail providers will likely respond to consumer demand for simplified pricing. Aggressive implementation of mandatory hourly pricing threatens to drive consumers to embrace simplified supply solutions that ultimately would be even less demand responsive than the rates currently offered by the regulated utility companies. As this response would be diametrically opposed to the objectives set forth in the Commission's mandate, we are convinced that the premature imposition of mandatory rates would be counter-productive to the thoughtful and well-reasoned premise that serves as the foundation for the Commission's proposed mandate.

Sincerely,

A handwritten signature in cursive script that reads "David F. Bomke". The signature is written in black ink and is positioned above the printed name.

David F. Bomke
Executive Director