

More than just power...

June 22, 2004

Honorable Jaclyn A. Brillling
Acting Secretary
State of New York Public Service Commission
Three Empire State Plaza, 14th Floor
Albany, NY 12223-1350

Re: Briefs on Exception to the Recommended Decision on CASE 03-E-0188 – Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard

Dear Secretary Brillling:

Consolidated Edison Solutions, Inc. (“ConEdison Solutions”) is a registered energy services company (“ESCO”) providing energy and energy-related services to residential and commercial customers in New York State. ConEdison Solutions has reviewed the Recommended Decision issued in the above proceeding and applauds the Commission’s efforts to encourage the development of renewable energy products. ConEdison Solutions strongly feels that the voluntary market-based renewable energy market (green power) should continue to play a critical role in the development of renewable power sources. As a retail marketer actively engaged in the voluntary marketing of green power, ConEdison Solutions views green power as an increasingly central component of competitive energy service offerings and as such it is important that the Recommended Decision not inhibit the emerging “green” competitive markets. Accordingly, ConEdison Solutions offers the following comments:

1) Voluntary Green Power Market

ConEdison Solutions’ overriding concern is that a clear separation be established between the voluntary green power markets and the RPS. The Recommended Decision is generally silent on the issues of the relationship between the existing voluntary green market and the compliance market that will be established through the RPS. Without this separation, the RPS may adversely affect the voluntary market by creating market confusion. However, if properly structured, the RPS may serve to bring in additional development resources that can then be leveraged by green marketers on a separate but parallel track to realize the full

potential of the renewable power market. To that end, ConEdison Solutions wishes you to consider the following suggestions:

- a) It is important that retail products which simply satisfy the RPS should not be allowed to make environmental claims for their power. A diligent effort needs to be made to inform the public of the distinction between any state-imposed RPS and voluntary green power programs.
- b) The RPS should not distract from New York State's effort, through NYSERDA programs and otherwise, to foster the green power markets. ConEdison Solutions recommends that NYSERDA be requested to continue and expand on its efforts to date to grow the voluntary green power markets, whether or not a mandatory RPS is adopted.
- c) The RPS accounting and verification system must clearly distinguish between renewables obtained for the purpose of compliance and those that serve the voluntary markets. Consumers must have full confidence that the environmentally superior products they are paying for are not being used to fulfill statutory mandates.

2) Cross Border Sales

ConEdison Solutions disagrees with the Recommended Decision's recommendation to require the physical delivery of renewable power into the New York Control Area in order to qualify towards a New York requirement. Given the intermittent nature of many renewable power supplies, there is a significant risk premium to schedule them for physical delivery. Furthermore, such restrictive rules are likely to isolate New York's renewable market from the surrounding PJM and New England regions and greatly limit the liquidity of the renewable attributes market. Instead, ConEdison Solutions believes that cross border sales of environmental certificates should be fostered through the establishment of a region-wide certificates-based accounting and verification system.

3) RPS Timing

As a competitive retail supplier, ConEdison Solutions believes that the imposition of an RPS requirement should not impose risks on existing retail contracts. Many retail contracts extend for 18 to 24 months, and until the final RPS order is issued by the Commission, it is extremely difficult to hedge the costs associated with potential RPS requirements. Therefore, the effective date of the first RPS requirement should be 24 months after a

Commission order establishing the requirement. The final 2013 targets could still be maintained by a slight increase in the RPS ramp-up in the intervening years, but to impose requirements any earlier than 24 months after the Commission ruling could be damaging to these emerging competitive retail markets.

4) **Competitive Equity**

Given the amount of load participating in Retail Access (approximately 25% state-wide) and the associated customer switching, individual ESCOs may be hard pressed to compete with the much larger regulated utilities in obtaining their future renewable requirements. Compliance would be particularly problematic for smaller ESCOs that would have to procure small blocks of renewable power.

While ConEdison Solutions continues to believe that central procurement model is preferable for implementing the RPS model, should the Commission adopt the individual requirements proposed in the Recommended Decision, ConEdison Solutions believes that the Commission should ensure that the regulated utilities' renewable procurement for their remaining full service and Provider of Last Resort customers should be in a competitive neutral manner that does not disadvantage competitive retail providers. As indicated in comments in Case 00-M-0504 – Proceeding on Motion of the Commission Regarding Provider of Last Resort Responsibilities – ConEdison Solutions believes that the best way to accommodate utility procurement is through a competitive wholesale procurement process. Clearly, the concerns that ConEdison Solutions and other market participants raised about the utilities' role in procuring capacity and energy for their full service customers apply equally to the procurement of renewable attributes: if the utilities entered into long term fixed priced supply contracts for renewable attributes, that could lead to boom bust cycles for competitive suppliers as the market value of the attributes varied relative to the fixed price associated with the utilities' long term contract(s).

Respectfully Submitted,

Handwritten signature of John F. Ryan in cursive script.