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Hon. Jaclyn Brillling, Secretary
New York Public Service Commission
Three Empire State Plaza
Albany, New York 12223

Re: Case 03-E-0641 – Proceeding on Motion of the Commission Regarding Expedited Implementation of Mandatory Hourly Pricing for Commodity Service

Dear Secretary Brillling:

These comments are submitted on behalf of the Retail Energy Supply Association¹ (“RESA”) and the Small Customer Marketer Coalition (“SCMC”) in response to the *Order Instituting Further Proceedings and Requiring the Filing of Draft Tariffs*, issued in this proceeding on September 23, 2005 (“Order”).

In response to the Order, several utilities submitted filings providing for mandatory hourly pricing for the largest customer classifications in response to directives set forth in the Order.² The comments presented herein are generally applicable to all the filings and address concerns that need to be addressed in order to ensure that RTP is properly and effectively implemented.

¹ RESA member companies include Amerada Hess Corporation, Constellation NewEnergy, Inc., Direct Energy Services, LLC, Reliant Energy Solutions, Select Energy, Inc., Sempra Energy Solutions, Strategic Energy LLC, SUEZ Energy Resources NA, Inc. and U.S. Energy Savings Corp. The opinions expressed in this document may not represent the views of all members of RESA.

² Compliance filings were submitted on behalf of: Consolidated Edison Company of New York, Inc. (“Con Edison”); Orange and Rockland Utilities, Inc. (“O&R”); New York State Electric & Gas Corporation; Rochester Gas and Electric Corporation; and Niagara Mohawk Power Corporation (“NiMo”). In addition, Central Hudson Gas and Electric Corporation (“Central Hudson”) submitted a report on outreach and education for the large electric customers. The utility filings are cited as “(name of utility), p. ___”

1. Timeliness.

The proposed tariffs while styled as mandatory hourly pricing generally do not mirror the ISO staged settlement process that includes a day-ahead market (DAM) followed by a balancing energy market. While the DAM mechanism may be an improvement over the current pricing structure, it does not accurately portray the wholesale market price for power including balancing energy settlements. Thus, in O&R and Con Edison, for example, Rider M RTP customers instead of paying the MSC are billed an hourly price equal to the NYISO zonal day-ahead, adjusted for various factors. Day-ahead only pricing is not fully reflective of RTP. The full actual costs incurred by a customer acquiring electricity in New York include the day-ahead purchase and then the subsequent balancing in the real time market. Our goal should be to move as close to true real time pricing as is technologically feasible. As interval meters are capable of transferring data on a real time basis, an effort should be made to implement a two-stage pricing mechanism that includes both day-ahead (forward) market and a real-time (balancing) market.

2. Accuracy and Transparency.

The hourly pricing mechanism used by the utilities is adjusted for various factors including losses, capacity, ancillary services and other non-energy costs. In addition, components of the pricing mechanism may also incorporate class average cost data rather than customer specific costs. All of these non-energy cost elements need to be disclosed in complete detail so that the RTP pricing is fully transparent and ESCOs can accurately compare their total costs to those charged by the utilities.

It is also imperative that the costs reflected in the RTP price charged to customers mirrors the market-based ISO price with only limited adjustment for related non-energy charges and without any inclusion of other distorted energy-related factors such as hedges or other non-ISO based energy costs. The concern over the potential inclusion of non-ISO related energy costs in the hourly price charged to RTP customers is underscored by reviewing the differing price definitions of the hourly price provided by the utilities. Thus, O&R advises that its hourly price is “equal to the NYISO zonal day-ahead hourly price, adjusted for losses, plus amounts for non-energy components of electric power supply (e.g., capacity, ancillary services and any other non-energy costs)...”³ In contrast, Central Hudson advises that its hourly pricing provision “applies the hourly Day-Ahead Locational Based Market Price for Zone G... and as adjusted by the Company’s Factor of Adjustment and to reflect **other energy** and non-energy components of electric supply, ...”⁴ As presented by Central Hudson, the hourly price could reflect other “energy” components of electric supply in addition to the hourly day-ahead price established by the ISO. This gives rise to the possibility that the rate to RTP customers reflects hedging or other types of contracts which impact upon energy supply in addition to the ISO price. To assure that customers are facing real-time prices, it is essential that the hourly price include only the following components: hourly day-ahead locational-based ISO energy price, losses, ancillary charges, capacity and only additional non-energy costs. All utilities offering RTP should be directed to adhere to this pricing standard.

³ O&R, p.2.

⁴ Central Hudson, p. 2, emphasis supplied.

3. Data Transfer and Access

To properly implement RTP it is vitally important to adopt an efficient EDI based protocol to govern the transfer of interval meter RTP data from the ESCO or MDSP to the utility and/or the ESCO and/or the Billing Party. It is our understanding that such a consistent data transfer protocol is not yet in effect and each utility is employing its own data transfer mechanism.

Moreover, ESCOs need to have timely on-line access to the usage data in order to fully and properly serve the needs of the customer. The very purpose of RTP is to create a strong nexus between actual usage patterns and real time costs; for this to occur a requisite element includes the ability of the ESCOs to access this critical data in a timely manner that can only be accomplished through on-line access.

4. Cross-Subsidization

As the goal of RTP is to confront customers with the real cost impact of their usage patterns, it is necessary to wring out any cross-subsidies or other related factors that tend to mask the true costs of serving the RTP customer.

5. Implementation Costs

As a primary goal of RTP is to ameliorate the utilities' peak demand costs which include both energy and capital components, the initial incremental costs associated with RTP should be borne by all ratepayers and recovered from the delivery rate.

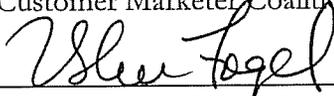
6. Cost of Metering Equipment, Metering Services and Metering Data Supply Services

In consonance with the Commission's Unbundling Policy, the charges reflected in the utility tariffs associated with the meter, meter installation and related metering services must be market based so as ensure that these services and products can be offered by ESCOs, MDSPs and MSPs on a competitive basis.

SCMC and RESA appreciate the opportunity to address the vital issues raised by these filings and look forward to working with Staff in connection with the further implementation of RTP and related issues.

Respectfully submitted,

Retail Energy Supply Association and
Small Customer Marketer Coalition

By: 
Usher Fogel, Counsel

Cc: Active Party List (by electronic mail)