

**Comments by Consolidated Edison Company of New York, Inc. and
Orange and Rockland Utilities, Inc. on the
2013 New York State Energy Plan - Regulations**

July 11, 2011

Consolidated Edison Company of New York, Inc. (“Con Edison”) and Orange and Rockland Utilities, Inc. (“O&R”; collectively, the “Companies”) appreciate the opportunity to provide comments in response to the draft regulations outlining the procedural conduct for the development of the New York State Energy Plan (the “State Energy Plan”). It is critical for the State Energy Plan to inform the policies and programs that will ensure the goals of continued reliability, efficiency, and environmental awareness of all aspects of the energy infrastructure for the millions of New Yorkers who live and work in New York City and the surrounding region. The Companies rely on State policies and regulations, including those influenced by the recommendations of the State Energy Plan, to facilitate actions that are critical to the quality and nature of the services provided to our customers. These include policies related to the permitting of energy facilities like natural gas pipelines and electric generation equipment, and policies that encourage the achievement of cleaner air and cleaner water. Finally, the Companies may themselves be subject to the regulations being contemplated in this proceeding once the regulations have been approved by the State Energy Planning Board (the “Board”), and have an interest in these regulations being designed to achieve the goals of the State Energy Plan in the most efficient and effective manner.

The Companies’ comments focus on three issues: cost-effective gathering of information; the scope of the regulations as it pertains to information gathered from major energy

companies; and regional planning councils. In addition, Appendix A to these comments sets forth portions of the draft regulations where additional clarifications would be helpful.

Cost Effective Gathering of Information. The Companies urge that the State Energy Plan be developed in a cost-effective manner, particularly as this pertains to the collection of information. To assist in this information collection process, the Companies stand ready, as they have in the past, to assist the Board through provision of their expertise. However, as noted below, there is already much information provided to State agencies and local organizations such as the New York State Public Service Commission (“PSC”) and the New York Independent System Operator (“NYISO”) as well as to national agencies and organizations such as the Federal Energy Regulatory Commission (“FERC”), the United States Department of Energy (“DOE”) and the Eastern Interconnection Planning Collaborative (“EIPC”). In many cases, the information provided to these agencies and organizations is publicly available, consolidated from multiple sources, and vetted for accuracy and consistency across sources. The State Energy Planning regulations must more explicitly recognize that data gathering ought to begin with the collection and coordination of data from these preexisting sources, which will help make information collection for the development of the State Energy Plan more effective and more efficient.

As the Board is aware, the Companies already provide significant amounts of information to various agencies and organizations which may be the best sources for information the Board seeks. For example, the draft regulations at Part 7587.2(b)(3) allow the Board to request information about the electric transmission and distribution companies’ transmission facilities. This information is provided by the Companies to the NYISO annually as part of the NYISO’s annual update to its Load and Capacity Data document, commonly referred to as the “Gold

Book.” Similarly, the draft regulations at Part 7587.2(b)(2) allow the Board to request information about the electric transmission and distribution companies’ average hourly load shapes. Load shape information is provided to the PSC as part of normal regulatory proceedings.

Moreover, in addition to these types of reports already submitted to other agencies, the Companies are developing long-range (twenty-year) plans for all three of their commodity businesses (electric, gas, and, for Con Edison only, steam). While some aspects of these long terms plans are focused on local system issues that may not be useful to development of the State Energy Plan, other aspects such as long term energy and capacity forecasts and the discussion of new technologies like Smart Grid and electric vehicles are very pertinent. Similarly, in conjunction with various regulatory proceedings, both Con Edison and O&R have filed with the PSC and the New York State Department of Environmental Conservation and other State agencies, where appropriate, various studies and reports that contain information that also meets the data needs for preparing a the State Energy Plan.

The Companies also suggest that some flexibility be accorded to entities providing data to the Board so that minor differences regarding the specifics contained in the regulations (*e.g.*, a requirement that all forecasts provided be on 5-, 10- and 15-year bases) do not invalidate the use of pre-existing work.

There is necessarily a cost for the development of new studies and the Companies respectfully request that the Planning Board be cognizant of these costs, and urge the Planning Board to undertake its task in a cost-effective manner for all participants.

Scope of Information Gathering. The Companies understand and respect that as a result of the statute in the Energy Law that creates the State Energy Planning process, the Board has been granted latitude as to what information may be required in preparation of the State Energy

Plan. The Companies suggest that the draft regulations in some instances may be going too far and in other instances not far enough when identifying what information will be gathered. An example of where the draft regulations potentially go too far occurs at Part 7856.6, Workforce Development, which allows the Board to require major energy companies to submit information including “staffing patterns, skill requirements, earnings, career ladder opportunities, occupational trends and labor supply/demand assessment...” The Companies understand that the aim of this section is assessing the sufficiency of labor market skills needed to meet State Energy Plan goals, but are concerned that the information requested is much more relevant to economic development efforts within the State and much less relevant to the development of a State Energy Plan.

Conversely, the regulations make no mention of the need to gather information related to taxes, fees and other charges levied on energy customer bills. Taxes and fees have been a major driver of increases in customer bills in recent years, and the 2009 New York State Energy Plan recognized this fact.¹ The Companies believe that information regarding the impact of taxes and fees on the delivered cost of energy in New York State is highly relevant to achieving one of the stated goals of the State energy planning process, reducing the overall cost of energy in the State, and therefore respectfully suggest that the regulations authorize the Board to collect this information.

Given the latitude the law grants the Board regarding the information that the Board may require in the development of the State Energy Plan, in determining whether information should properly be included in the draft regulations as required to be furnished in development of the State Energy Plan the Companies suggest full consideration of the language contained in the Energy Law that governs the State energy planning process. That section requires the Board, in

¹ 2009 State Energy Plan at 4.

developing the State Energy Plan, to be guided by the goals of “improving the reliability of the state's energy systems; insulating consumers from volatility in market prices; reducing the overall cost of energy in the state; and minimizing public health and environmental impacts, in particular, environmental impacts related to climate change.”² The Companies suggest that if information is directly required by the Board in order to meet one of these goals, then it should be collected, but if it is not directly required to meet one of these goals then the Board should consider carefully the impact of collecting such information on those who must develop it and provide it.

Regional Boards. By its 2009 enactment of Energy Law Sec. 6-102 et seq. requiring development of the State Energy Plan, the Legislature sought to modernize earlier State energy planning efforts by addressing the significant changes in energy policy since the first energy planning legislation in 1992 recognizing global, regional and local issues. Thus, in addition to seeking to capture such broad issues as global warming, Energy Law Sec. 6-104(2)(v), the Legislature also highlighted the importance of drawing on the concerns of the State's regions. Specifically, Energy Law Sec. 6-102(2) calls for the establishment of two regional planning councils – one upstate and one downstate —“whose members shall work with the state energy planning board.”³ The council members are to solicit input from the regional stakeholder interests and transmit a report to the state energy planning board (“Board”) with specific recommendations.⁴ Stakeholder interests include “local governments, municipal utilities, rural

² N.Y. Energy L. § 6-102.

³ *Id.*

⁴ The regional planning members are appointed by the governor, temporary president of the senate and the speaker of the assembly. *Id.*

electric cooperatives, utilities, labor unions, ratepayers, businesses, trade associations, generators, and community organizations.”⁵

The Companies endorse this statutory recognition of the potential differences in energy policy between the two regions of the State in the development of the State’s overall energy policy. Certain types of issues, and more importantly, the relevant solutions, may result in differences that ought to be defined and thoroughly considered. For example, the particular challenge of increasing solar energy installations in a dense, urban setting could be better and more effectively explored first at the more local level.⁶ Thus, the Companies would suggest that the draft regulations be augmented to reflect the existence of the regional boards, and specify how such regional boards will operate.

Thank you for your consideration of these comments.

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Respectfully submitted,

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⁵ *Id.*

⁶ Indeed, the PSC has begun to recognize a different regional challenge with respect to the State’s Renewable Portfolio Standard, by establishing a pilot program to foster a greater degree of geographic balance in Customer-Sited Tier Program. Case 03-E-0188, Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard, *Order Authorizing Customer-Sited Tier Program Through 2015 and Resolving Geographic Balance and Other Issues Pertaining to the RPS Program*, (April 2, 2010).

Appendix A

This appendix contains specific comments on sections of the draft regulations:

Section 7842.6 sets forth the procedure the Board will use when responding to a Freedom of Information Law (FOIL) request for confidential information, including critical infrastructure information, submitted to the Board. Nonetheless, the Companies believe that the Board's rules should not require submission of critical energy infrastructure location information that is not directly necessary for the State Energy Planning process. For example, Section 7857.2(b)(13) and (17) (electric assets), Section 7858.2(e) (natural gas assets) and Section 7861.3(a) (steam assets) ask for critical energy infrastructure location information that will have limited usefulness to the State Energy Planning process. The Companies suggest that the regulations recognize that requests for the location of utility infrastructure facilities information do not require the submission of 'spatially referenced data' unless specifically required.

Section 7857.2(b)(1) asks for the "total energy received for the year" from net metered customers. The Companies can only provide the net excess energy received for the year. The metering configuration used by the Companies to allow for net metering offers no practical way of keeping account of the total energy received from these customers, since in periods when the customer is importing energy by using the electric distribution system the metering arrangement erases any export of the system that may have occurred in prior periods.

Section 7857.2(b)(2) asks for "average hourly load shape for the average customer in each rate class." The Companies note that calculating load shapes is a challenging and costly process and suggest that, for the sake of consistency with other regulatory filings and to manage costs, such load shapes should be calculated based on the data underlying the most recent rate

filing by the utility. In addition, since many utilities have rate classes with small numbers of customers and small customer loads, load shapes for such classes may not be available.

Section 7858.2(a)1 asks for forecasted and historic natural gas delivery data. The Companies cannot provide this information by ‘end-use classifications’, but can provide such information by existing natural gas rate classes.

Section 7861.2(a) asks for forecasted and historic steam sales data. The Companies cannot provide this information by ‘end-use classifications’, but can provide such information by existing steam rate classes.

Section 7861.2(b) asks for data related to steam forecasting supply requirements and “the amounts of steam needed to meet severe weather conditions and loss.” Con Edison currently uses a very specific weather design criteria to account for the supply needs of customers; additional clarity would be helpful regarding the meaning of ‘severe weather’. In addition, the meaning of the word ‘loss’ in this section is not clear and additional clarity would be helpful.

Section 7861.3(b) asks about steam system efficiencies. Con Edison monitors steam system energy loss by the difference between the pounds of steam sent out from stations and actual steam sales. This provides an overall measure of thermal loss, leakage and metering errors of the steam system up to the customer’s premises. The other parameters requested in this section pertaining to the customer’s use and operation (chemicals, condensate recovery, and make up water levels) would require a detailed survey and analysis to be performed every time the Board requests this information. Such a study and analysis would cost in excess of \$250,000 the first time it is conducted and this would only capture the top 200 steam customers. As such, the Company suggests that it be allowed to provide its best estimate on the steam variance of its steam distribution system and an order of magnitude estimate of the end to end efficiency of the

steam system assuming a unity efficiency of the customer's equipment and assuming a reasonable proxy for thermal energy recovery from steam condensate.

Section 7861.4(a) appears to ask for information about programs to retain steam customers, but is confusing. The meaning of 'retention programs' should be defined. It is not clear how emissions control technologies relate to such retention programs.

Section 7861.4(b) describes emissions control measures on each unit and appears to ask for details pertaining to emissions controls that may not be readily available. The Company can only provide what information that it has in its possession on such emissions control measures.