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Sara Schoenwetter  
Assistant General Counsel

July 6, 2009

Hon. Jaclyn A. Brillling,  
Secretary  
State of New York Public  
Service Commission  
Three Empire State Plaza  
Albany, NY 12223-1350

RE: Case 07-E-0523 Expansion of Consolidated Edison Company of  
New York, Inc. ESCO Referral Program

Dear Secretary Brillling:

Enclosed please find an original and 25 copies of the "Petition for  
Reconsideration or Clarification of Order Concerning ESCO Referral Program"  
being filed by Consolidated Edison Company of New York, Inc. The Petition  
consists of the petition and one exhibit.

This petition is being served by email on all parties to this proceeding.

Sincerely,

*Sara Schoenwetter* (TBC)

c: Case 07-E-0523 Active Parties List (by email)  
LuAnn Scherer, Department of Public Service ( by email)

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

Case 07-E-0523 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric Service

PETITION FOR RECONSIDERATION OR CLARIFICATION OF ORDER  
CONCERNING ESCO REFERRAL PROGRAM

In its March 25, 2008 order on electric rates for Consolidated Edison Company of New York, Inc. (“Con Edison” or the “Company”) in Case 07-E-0523, the New York State Public Service Commission (the “Commission”) directed the Company to file a report on the feasibility of expanding its ESCO referral program to include new customer referrals to ESCOs. Con Edison filed its report on May 23, 2008. In that report, the Company proposed to expand its ESCO referral program by allowing every applicant for service to request the Company to enroll him or her in the retail access program, either by asking to be randomly assigned to an ESCO or designating a particular ESCO to provide commodity service. As are customers served under the Company’s existing program, the new customer would be served under the terms designed by the Commission for the ESCO referral program, that is, an introductory 65-day term during which the commodity rate was Con Edison’s commodity rate less seven percent (the “ESCO Contract Option”). The ESCO would have the opportunity to change its pricing arrangement after the 65-day term ended. The customer would have the option to withdraw from the program without penalty at the end of the introductory term.

The Commission acted on the Company’s report in its Order Concerning ESCO Referral Program, issued June 3, 2009, in this proceeding. In this order, the Commission agreed (p. 11) that Con Edison could substitute its expanded ESCO referral program for its existing ESCO referral program. However, the Commission modified the Company’s program in response to intervenors’ comments in a way that would make the Company’s expanded program not only unrecognizable but also unnecessarily complex and impracticable. The Company requests that the Commission reconsider its decision to require “warm transfer” of customer calls and rescind that requirement. The Company also requests that the Commission reconsider the Company’s call center staffing requirements and cost recovery for additional representatives and allow the Company to recover the cost of personnel necessary to maintain a level of responsiveness in its Call Center deemed necessary by the Commission.

“Warm Transfer”

The Order states (p. 7) that “[a] ‘warm transfer’ would occur when the Con Edison CSR transfers the customer call directly to an ESCO. By allowing the ‘warm transfer’ to an ESCO call center, the ESCO would serve as an agent in the enrollment

process.” This procedure is inconsistent with the operation of the ESCO referral program and its built-in customer safeguards.

The purposes of the ESCO referral program were to reduce ESCO marketing costs and simplify the enrollment process. As the Commission acknowledged (p. 7), the fact that “the enrollment process ... is controlled by Con Edison” provides further assurance that “the customer will not incur any negative financial impacts during the introductory period.” The “warm transfer” requirement of this Order, under which the Company would transfer the applicant’s call to an ESCO and allow the ESCO to enroll the customer in retail access, opens the possibility that the customer will not be provided service at the terms of the ESCO referral program. Moreover, there is no means for the ESCO to act as the utility’s agent in the enrollment process. In fact, under the UBP, when the ESCO enrolls a customer in retail access, the enrollment must be submitted not less than 15 days before the customer’s cycle billing date. Thus, depending on the date of the ESCO enrollment relative to the customer’s cycle billing date, the customer may have to be served by Con Edison for at least one billing cycle and perhaps two billing cycles before being transferred to the ESCO.

There are also practical issues with requiring a “warm transfer” of the applicant’s call:

- If the applicant is requesting both gas and electric service to be provided by two randomly assigned ESCOs, the caller cannot be transferred to both ESCOs at the same time.
- If the applicant calls Con Edison to initiate service during hours when the ESCO’s call center is not operational, the caller cannot be transferred to any ESCO.<sup>1</sup>

There is another issue that may not only raise concerns of practicality but could also have resounding and negative impacts on participating ESCOs. Under Con Edison’s current referral program, the CSR does not know the identity of the randomly assigned ESCO. The assignment to a particular ESCO is actually made when the customer’s account record is updated overnight. The letter informing the customer of his or her enrollment in retail access and the name of the ESCO that will provide service is generated automatically. The randomness of the assignment is preserved by this procedure, which mitigates the possibility either that a customer might reject, with or

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<sup>1</sup> Con Edison Customer Operations personnel contacted the call centers of all ESCOs authorized to operate in its service territory on a Thursday and Monday during customary business hours.

- Thursday call wait time ranged from 5 seconds to 360 seconds with about 80% of ESCOs’ wait time being more than 30 seconds.
- Monday call wait time ranged from 2 seconds to 574 seconds with about 50% of ESCOs’ wait time being more than 30 seconds.
- 4 ESCOs have 24/7 operating hours
- 3 require that the caller leave a message
- 72% have Monday - Friday business hours
- 4 ESCOs have Monday - Saturday business hours
- 1 ESCO has Monday - Sunday business hours

without cause, a particular assignment or that an ESCO might feel that the CSRs are influencing the assignments. The “warm transfer” procedure, on the other hand, would require the Company to identify to the customer during the call the name of the randomly-assigned ESCO, and it is not hard to imagine a customer saying, “How about the next one on the list?” or “What do you know about that one?” Furthermore, in order to identify the ESCO being randomly assigned to a particular applicant, the Company will have to make system changes, for which there would be a cost. Having to make such system changes for a pilot of the “warm transfer” process (Order, p. 8) would not be in anyone’s interests.

Another concern about “warm transfers” is the prolonged time that would likely be required to be spent by the Company’s CSR on the phone with the new customer. Under the expanded ESCO referral program as proposed by Con Edison, the applicant would be asked, after providing the necessary information to open his or her account, if he or she wanted to purchase commodity from an alternative supplier. If the applicant answered, “Yes,” the applicant would be able to designate such a supplier or ask for random assignment. The CSR would thank the customer and the conversation would be completed. Under the “warm transfer” arrangement, however, it is not clear at what point in this process, the CSR would, in addition to processing the new account and asking whether the customer were interested in purchasing commodity from an alternative supplier, be required to explain the “warm transfer” process, attempt to contact the ESCO, wait for the call to be answered and ascertain that an appropriate representative was on the line. The additional time that would be required of the Company’s CSR could jeopardize the Company’s ability to meet its “Call Answer” performance standard component of its Customer Service Performance Incentive Mechanism.

#### Additional Staffing Requirements

In preparing for its 2008 report to the Commission, the Company undertook a time study to determine the incremental time taken by a CSR offering retail access to an applicant for service over the time to obtain the information necessary to open an account in the ordinary course. (See Exhibit 1 attached.) The Company assumed, as it reported, that all new applicants would be offered the opportunity to participate in the ESCO referral program, and that some, but not all, would accept the opportunity. The exhibit shows the basis for the Company’s conclusion that, overall, the “full-time equivalent” of five additional CSRs would be required.

While the Order (p. 11) recognizes that the Company’s study determined that it can expect an average incremental time of 1.4 minutes on each call in which the offer of *PowerMove* is made to applicants for new service, the Commission inexplicably disregarded the Company’s information and concluded that yet another study is required to determine the actual incremental time “spent by a CSR to explain and process a new service customer through *PowerMove*.” Furthermore, the Commission concluded (p. 12) that the Company must incur the costs of hiring and training any required additional CSRs and defer the costs and their recovery until the Company can prove, based on six months’ actual information, the portion of such costs that are attributable to the ESCO

referral program. Burdening the Company with any such costs, even temporarily, is contrary to the Commission's directive that utilities "continue or implement ESCO referral and purchase of accounts receivables programs so long as the costs of such programs are not borne by ratepayers," Case 07-M-0458, Order Determining Future of Retail Access Programs (Oct. 27, 2008) (p. 4). If the Commission had not rejected the Company's proposal that the costs for program expansion be borne by ESCOs, deferral would not be necessary.

#### Conclusion

For the foregoing reasons, the Company respectfully requests that it be relieved of the obligation of providing "warm transfers" of new service customers' calls to initiate service. The Company should be permitted to recover through its tariffs the costs for the expansion of its *PowerMove* program to new applicants for service, including modifications directed by the Commission, if the Company is not permitted to pass these costs to ESCOs, who will be the beneficiaries of the expanded *PowerMove* program.

Staff of the Department of Public Service will be hosting a technical conference on July 8, 2009, at which the issue of "warm transfer" will be discussed. Given the substantial changes in its procedures that would be required to implement the "warm transfer" requirement, the Company reserves the right to revise and resubmit its plan, including its timeline for implementation, following the conference.

Dated: July 6, 2007  
New York, NY

Respectfully submitted,

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Consolidated Edison  
Case 07-E-0523

**Summary of Incremental Time Required for ESCO  
Referral Program Offer for New Customers**

	Statistical Data
Number of new orders	328000 annual
Current length of a turn on call	4.07minutes
Incremental accepted	2.3 minutes
Incremental rejected	1.1 minutes
Average Incremental Minutes	1.38 (125230+328264=453494/328000)
Incremental Call Hours Annually	7558 125230+328264=453494/60=7558
Average Productive Hours	1640
Number of new CSRs required	5 7558 / 1640

Total number of turn on's taken = 108

Accepted offers = 18 (16.6%)

Rejected offers = 90 (83.4%)

Incremental accepted = 328000 x 16.6% = 54448 x 2.3 = 125230 minutes

Incremental rejected = 328000 x 83.4% 27355 x 1.2 = 328264 minutes

7558 hours represents a blended rate of accepted and rejected minutes