

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
New York on March 25, 2010

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Maureen F. Harris
Robert E. Curry, Jr.
James L. Larocca

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.

ORDER CONCERNING PETITION FOR RECONSIDERATION OR CLARIFICATION
OF ORDER CONCERNING ESCO REFERRAL PROGRAM

(Issued and Effective March 29, 2010)

BY THE COMMISSION:

INTRODUCTION

On June 3, 2009, we issued an Order in Case 07-E-0523 directing Consolidated Edison Company of New York, Inc. (Con Edison or Company) to expand its ESCO Referral Program, *PowerMove*, to new customers on a pilot basis and to submit a report on alternative cost recovery mechanisms within 60 days of the issuance of the Order (June 3, 2009 Order).¹ The Order directed Con Edison to implement a process under which its customer service representatives (CSR) would transfer a new customer's call directly to an ESCO call center in order for the

¹ CASE 07-E-0523 - Consolidated Edison Company of New York, Inc., Order Concerning ESCO Referral Program (issued June 3, 2009).

ESCO to serve as an agent in the enrollment process, known as a "warm transfer". The Company was also directed to modify its ESCO assignment process to provide customers with all available choices. Con Edison was directed to defer the costs of hiring and training additional employees for the PowerMove program attributable to the program's expansion to new customers, and to submit a report containing actual cost information not later than 30 days after the program has been effect for six months. We also granted Con Edison a temporary waiver of the rescission requirements as they apply to the ESCO Referral Program under the Uniform Business Practices (UBP), Section 5.D.8.

BACKGROUND

On July 6, 2009, Con Edison filed a petition (Con Edison Petition) seeking reconsideration or clarification of the Order. The Company requested that the Commission reconsider and rescind its decision to provide for the "warm transfer" of customer calls from the Company to the ESCOs. The Company also requested that the Commission reconsider the recovery of costs associated with additional call center staff which it believes is necessary to maintain its Commission imposed call center performance standards.

Notice of the Con Edison Petition was published in the State Register on July 29, 2009 in conformance with the State Administrative Procedure Act (SAPA) §202(1). The comment period expired on September 12, 2009. Comments were received from the Retail Energy Supply Association (RESA).

On June 23, 2009, the Secretary to the Commission issued a notice of a technical conference to be held at the Commission's Albany Offices on July 8, 2009, to discuss among other things, the Commission's June 3, 2009 Order regarding Con Ed's proposal for ESCO Referral at service initiation and the

requirement that Con Edison implement the "warm transfer" approach.

DISCUSSION AND CONCLUSION

"Warm Transfer" of Customer Calls to an ESCO

The June 3, 2009 Order directed Con Edison to implement the "warm transfer" approach on a pilot basis to determine the effectiveness of this approach for facilitating customer migration and directed the costs to be borne by ESCOs.

The Con Edison Petition states that the "warm transfer" presents several practical issues which may negatively affect participating ESCOs. For example, Con Edison expresses the concern that if a new customer is seeking electric service and natural gas from two different ESCOs, the call cannot be transferred to both at the same time. Also, if an ESCO's call center is not operational during the time of the new customer contact, the call cannot be transferred. Another concern Con Edison identified is the potential for a customer, rather than being provided the terms and conditions of the Commission approved *PowerMove* program, to be enrolled in another of the ESCO's products or service offerings.

Con Edison also raised concerns about the effect of the "warm transfer" requirement on the *PowerMove* random assignment process. Currently the CSR is not aware of the identity of the participating ESCO as the customer's account record is updated overnight and a letter is automatically generated to advise the customer of enrollment with a specific ESCO. Con Edison contends that the validity of the random assignment may be compromised if the CSR is required to identify the ESCO to the customer. In addition, Con Edison asserts that system changes would be required to modify the Company's existing random assignment process and to implement the "warm transfer" pilot for which there would be related costs.

RESA supports Con Edison's request to rescind the "warm transfer" requirement. RESA notes that during the July 8, 2009 technical conference, proponents of the "warm transfer" approach commented that after a customer was transferred to an ESCO, the ESCO would be able to offer products other than the ESCO referral program. RESA asserts that this position conflicts with the Commission's Statewide Order which established guidelines for ESCO referral programs requiring the utilities to enroll customers only in the referral program.

Con Edison presents several compelling technical and practical concerns regarding the "warm transfer" approach. We agree that the "warm transfer" approach is inconsistent with our Statewide Order on ESCO referral programs and therefore, agree that the "warm transfer" approach should not be implemented for the *PowerMove* program.

Call Center Staffing Requirements

According to the Company, the June 3, 2009 Order disregarded its justification for five additional CSRs to implement ESCO Referral for new customers. Further, deferring cost recovery until it provides a report with six months of actual information places a burden on the Company which, according to the Company, is inconsistent with the Commission's October 27, 2008 Order Determining the Future of Retail Access² which directed utilities to either implement or continue ESCO referral programs without ratepayer support.

In the June 3, 2009 Order, we noted that several parties raised questions concerning the Company's justification

² CASE 07-M-0458 - Proceeding on Motion of the Commission to Review Policies and Practices Intended to Foster the Development of Competitive Retail Energy Markets, Order Determining Future of Retail Access Programs (issued October 27, 2008).

for the employment of five additional CSRs to accommodate the additional call time it expects to incur with the expansion of *PowerMove*. Further, at the July 30, 2009 technical conference Con Ed stated that the additional CSRs would not be dedicated to *PowerMove*, raising concerns about the appropriateness of ESCOs funding these positions. Given that the proposed additional CSR positions would not be dedicated to retail access or *PowerMove*, we determined that further study was warranted to determine the actual amount of time a CSR needs to explain and process a new customer in the ESCO Referral program. The Company was directed to defer costs and file a report within 30 days after the *PowerMove* program expansion had been operational for six months to obtain actual cost information. The Company has not presented any additional information as a basis for reconsideration of the Commission Order as it relates to deferral of these costs.

As previously noted, we find that there is a need to implement a pilot program in order to determine the actual amount of time the CSRs spend to discuss and enroll new customers in *PowerMove*.

CONCLUSION

The expansion of the *PowerMove* ESCO referral program to new customers should provide additional growth in the competitive retail market. Con Edison presents several compelling technical and practical concerns regarding the "warm transfer" approach. We agree that the "warm transfer" approach is inconsistent with our Statewide Order on ESCO referral programs. Therefore, the "warm transfer" approach should not be implemented for the *PowerMove* program. However, concerns remain with respect to the accuracy of projected implementation and ongoing operational and maintenance costs. Costs associated with the expansion of *PowerMove* should be deferred until an

assessment of the costs to be borne by the ESCOs to expand *PowerMove* and a recovery mechanism for those costs has been established.

The Commission orders:

1. Consolidated Edison Company of New York, Inc.'s petition is granted, in part, to remove the requirement that a "warm transfer" process be a component of the *PowerMove* program.
2. Consolidated Edison Company of New York, Inc. is directed to continue the implementation of the pilot program as directed in the June 3, 2009 Order issued in this proceeding.
3. The Secretary may, at her sole discretion, extend the deadlines set forth in the Order.
4. This proceeding is continued.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Secretary