

**CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.
4 IRVING PLACE
NEW YORK, NY 10003**

PHASE ~~4~~5
RETAIL ACCESS
IMPLEMENTATION PLAN
AND OPERATING PROCEDURE

Effective May 1, ~~2001~~2002
(revised ~~April 20, 2001~~May 15, 2002)
Supersedes all prior Plans

TABLE OF CONTENTS

1. INTRODUCTION	<u>333</u>
1.1. Purpose of Retail Access Implementation Plan	<u>444</u>
2. KEY PROVISIONS OF RETAIL ACCESS	<u>555</u>
2.1. For Participating Customers	<u>555</u>
2.2. For ESCOs	<u>656</u>
2.3. For Con Edison	<u>777</u>
3. CUSTOMER EDUCATION PROGRAM	<u>888</u>
3.1. Objectives of the Customer Education Program	<u>888</u>
3.2. Key Factors	<u>888</u>
3.3. Components of the Customer Education Program	<u>888</u>
3.4. Schedule for Customer Education Program	<u>999</u>
3.5. Communications with ESCOs	<u>94010</u>
3.6. Communications with Other Interested Parties	<u>104010</u>
4. SELECTION AND ENROLLMENT	<u>114114</u>
4.1. Retail Choice <u>Power Your Way</u> Program Phases	<u>114114</u>
4.2. Retail Choice <u>Power Your Way</u> Program Eligibility	<u>114114</u>
4.3. Ongoing Enrollment	<u>114114</u>
4.4. Customer Solicitation	<u>114114</u>
4.5. Customer Participation	<u>124212</u>
4.6. ESCO Actions and Requirements	<u>124212</u>
4.7. Enrollment and Participation Questions	<u>134313</u>
4.8. Post-Enrollment Activities	<u>144414</u>
5. CUSTOMER TRANSACTIONS AND BILLING	<u>154616</u>
5.1. Delivery Service Billing (Con Edison to Customer)	<u>154616</u>
5.2. Electric Energy Supply Billing (ESCO to Customer)	<u>154616</u>
5.3. Other Transactions	<u>164717</u>
5.4. ESCO as Billing Agent	<u>202122</u>
6. Discontinuance of ESCO's Service	<u>272929</u>
6.1. Voluntary Discontinuance of ESCO Operations in the Company's Service Area	<u>272929</u>
6.2. Discontinuance of Sales by ESCO to Individual Retail Customer	<u>283030</u>
6.3. Involuntary Discontinuance of an ESCO	<u>293134</u>
6.4. Discontinuance of a Direct Customer	<u>313333</u>
6.5. Assignment of ESCO Contracts	<u>313334</u>
6.6. Anti-slamming Measures	<u>333534</u>
7. SERVICE TO ESCOs	<u>343636</u>
7.1. Operating Agreement	<u>343636</u>

7.2. Services to ESCOs	343636
7.3. Financial Security	353737
7.4. Invoices	384040
7.5. Billing Questions	384040
7.6. Dispute Resolution Process	394141
7.7. Complaint Procedure for Anti-Competitive Claims	404243
8. RECONCILIATION AND BALANCING	414444
8.1. Overview	414444
8.2. Metering /Consumption Data	414444
9. RELEVANT RATE SCHEDULES	434646
9.1. NYISO Open Access Transmission Tariff ("OATT")	434646
9.2. Open Access Transmission Tariff ("OATT")	434646
9.3. PSC No. 2 - Retail Access ("Retail Access Rate Schedule")	434646
9.4. PSC No. 9 - Electricity, Schedule for Electricity Service	434646
9.5. Economic Development Delivery Service Schedule No. 2 ("EDDS")	434646
10. PROGRAM MONITORING.....	444747
11. LIST OF APPENDICES TO THIS PLAN.....	454848
GLOSSARY OF TERMS	464949
DESCRIPTIONS OF SERVICE CLASSIFICATIONS ELIGIBLE FOR RETAIL ACCESS	515454
SERVICE REQUEST SAMPLE INFORMATION	535353
PSC ESCO ELIGIBILITY REQUIREMENTS	545454
DIRECT CUSTOMER OPERATING AGREEMENT	575757
SCHEDULE OF CHARGES	585858
ESCO OPERATING AGREEMENT	606060
LISTING OF DATA AVAILABLE VIA INTERNET	616161
EXPLANATION OF LOAD SHAPES	636363

RETAIL ACCESS IMPLEMENTATION PLAN AND OPERATING PROCEDURE

1. INTRODUCTION

On September 23, 1997, the Public Service Commission (“PSC”) approved a settlement (the “Agreement”) in Case 96-E-0897 under which Con Edison (also referred to as the “Company”) established a retail access program (referred to originally as the “Retail Choice Program” and now as the “Power Your Way Program”) for its customers. The program was extended under a settlement in Cases 00-M-0095 et al., approved with modifications by the PSC on November 30, 2000. Con Edison’s retail access program is referred to as the ~~Retail Choice~~ Power Your Way Program in all customer communications.

Under the ~~Retail Choice~~ Power Your Way Program, customers have the ability to purchase energy and capacity from competing providers. As provided in and subject to the terms of the Agreement, Con Edison initiated the Retail Choice Program on June 1, 1998. Phase 2 of the Retail Choice Program, which began on April 1, 1999, expanded the Program to a total of 2000 MW.

Con Edison ~~commenced Phase 3 on May 1, 2000 and~~ opened the program to all customers on November 1, 2000. ~~The Company plans to commence Phase 4 and will file retail access rates to be effective on May 1, 2001.~~ Phase 5 commenced on May 1, 2002.

This plan (also referred to as the “Operating Procedure”) is based upon the terms of the Agreement and the Uniform Retail Access Business Practices approved by the PSC, and is intended to govern the ~~Retail Choice~~ Power Your Way Program during the term of the Agreement. However, the plan may be adjusted with appropriate Commission oversight, to the extent that experience in implementing retail access may suggest improvements or necessary modifications or if there are any changes in the conditions and premises underlying the Agreement, including provisions governing cost recovery. This plan outlines the procedures to be used to implement retail access in Con Edison’s service area and is to be read in conjunction with the rate schedules governing retail access. Although the plan prescribes certain non-tariff rules applicable to retail access service, it is not meant to replace the applicable rate schedules that will govern retail access transactions. In the event of any inconsistency between the rate schedule(s) and this plan, the rate schedule(s) will govern.

In February 2001, the PSC adopted practices and procedures for competitive metering services available to all qualified customers. Meter Service Providers (MSPs) and Meter Data Service Providers (MDSPs) may now assume responsibility for various metering functions. Since these providers are not limited to serving ~~Retail Choice~~ Power Your Way customers, the Schedule for Electricity Service has been revised to reflect this new market structure. This plan is therefore modified accordingly.

The Operating Procedure provides customers and Energy Service Companies (“ESCOs”) with additional details regarding the Company’s implementation of its tariff

services and with additional guidance regarding the steps ESCOs and customers need to take to obtain and use the Company's tariff services. The Company will provide no less than 30 days' prior written notice of any proposed changes to the Operating Procedure to the Commission Staff, to all ESCOs currently serving customers under the ~~Retail Choice~~Power Your Way Program, and to Direct Customers. Proposed major changes to the Operating Procedure will be filed with the Commission; any changes that would modify the Agreement will be filed with the Commission for notice and comment. Changes to this Operating Procedure will be effective on the first day of the second calendar month following their submission to the Staff of the Commission unless subject to approval by the PSC under such schedule as the PSC may establish. The Company will follow applicable public notice and filing procedures for amending its tariff with respect to any matter currently addressed in the tariff or which otherwise requires Commission approval prior to becoming effective. For matters not requiring Commission approval, the Operating Procedure provides an effective and efficient vehicle for adapting the Company's ~~Retail Choice~~Power Your Way Program to changing business practices and market conditions.

The Operating Procedure and applicable PSC rate schedules are available on Con Edison's Internet site.

To facilitate an understanding of the terms used in this document, a Glossary is provided in Appendix 1.

1.1. Purpose of Retail Access Implementation Plan

This plan describes:

- 1.1.1. the Company's customer education program;
- 1.1.2. the program parameters and the relationships between market participants;
- 1.1.3. the relationship of the program to other aspects of the Agreement;
- 1.1.4. the procedures for enrollment and other aspects of program participation;
and
- 1.1.5. the service options available to ESCOs and retail access participants.

2. KEY PROVISIONS OF RETAIL ACCESS

2.1. For Participating Customers

Under the ~~Retail Choice~~Power Your Way Program, as more fully described in this procedure and subject to Con Edison's rate schedules, customers may:

- 2.1.1. Choose a provider of energy and related services from among eligible ESCOs and authorize the ESCO to act as their agent in connection with the transmission and balancing of energy on the customer's behalf to Con Edison's distribution system. A customer may designate only one ESCO to serve an individual electric account, except that a customer who takes service under the "Power for Jobs" ("PFJ") program, Rider Q of the Schedule for Electricity Service, or under the Economic Development Delivery Service ("EDDS") Schedule may take service under the Retail Access Schedule for the customer's requirements in excess of that served under Rider Q of the Schedule for Electricity Service or the EDDS Schedule, as specified in the applicable rate schedules.
- 2.1.2. Act on its own behalf provided it meets the requirements prescribed herein. A customer acting on its own behalf (a "Direct Customer") shall have all the rights and the obligations of an ESCO except for obligations imposed by the Commission with respect to regulatory requirements.¹
- 2.1.3. Authorize Con Edison to provide and ESCOs to receive information on their usage, billing and credit history from Con Edison and, if enrolled in the ~~Retail Choice~~Power Your Way Program, current billing information.
- 2.1.4. Purchase energy from an ESCO and delivery services from Con Edison.
- 2.1.5. Switch ESCOs, or take bundled service from Con Edison.
- 2.1.6. Have billing questions and other inquiries resolved through their ESCO or Con Edison, depending on the nature of the question. For example, questions about energy supply billing would be directed to the ESCO.
- 2.1.7. If the Company permits ESCOs to offer Billing Agency, authorize an ESCO to act as the customer's Billing Agent, if that ESCO has a Billing Agency arrangement.

¹ The rights and obligations of ESCOs are generally set forth in Sections 4, 6, and 7. In each section, the term ESCO shall be understood to include Direct Customers except with respect to any regulatory requirement inapplicable to a Direct Customer.

2.2. For ESCOs

Under the ~~Retail Choice~~Power Your Way Program, within the limitations specified herein and as more fully described in this procedure and subject to Con Edison's rate schedules, ESCOs shall:

- 2.2.1. Obtain a determination of eligibility from the Department of Public Service, register, if appropriate, with the Federal Energy Regulatory Commission (FERC), and sign service agreements with the New York Independent System Operator ("NYISO"), and comply with applicable regulatory and other legal requirements, including the requirements set forth in PSC Opinion No. 97-5, Opinion and Order Establishing Regulatory Policies for the Provision of Retail Energy Services, and any subsequently adopted regulatory requirements.
- 2.2.2. Enter into an Operating Agreement and a Retail Transmission Service Agreement with Con Edison in the forms approved by the PSC and the FERC.
- 2.2.3. Contract with retail access customers to meet their energy supply needs and obtain and retain customers' authorization to act as their agent for delivery of that energy on Con Edison's transmission system.
- 2.2.4. Obtain and retain customers' authorization to act as a Billing Agent provided that the ESCO meets the requirements of Section 5.4.
- 2.2.5. Contract for and deliver to the appropriate Con Edison load sub-zone a supply of energy sufficient to meet the energy supply needs of customers purchasing their energy supply requirements from it.
- 2.2.6. Provide Con Edison with information necessary for customer enrollment in the ~~Retail Choice~~Power Your Way Program and for termination of ESCO service to retail access customers.
- 2.2.7. Comply with the Public Service Commission's rules to prevent unauthorized customer transfers.
- 2.2.8. Comply with NYISO's requirements in acting as the agent of the retail access customer to schedule deliveries of energy to the appropriate Con Edison's load sub-zones.
- 2.2.9. Settle any discrepancies in deliveries with customers' actual energy consumption in accordance with NYISO procedures.
- 2.2.10. Satisfy installed capacity and other requirements applicable to the ~~Retail Choice~~Power Your Way Program as established by requirements imposed by the NYISO, the NYSRC; the National Electric Reliability Council (NERC); and the Northeast Power Coordinating Council (NPCC), as the same may be applicable to the ~~Retail Choice~~Power Your Way

Program.

2.2.11. Be responsible for billing and collecting from its customers charges for services it rendered.

2.2.12. For an ESCO having a Billing Agency arrangement, if permitted by Con Edison, issue bills for Con Edison services promptly to customers and either direct customers to make payment to a lockbox or make payment for Con Edison services.

2.3. For Con Edison

Under the ~~Retail Choice~~Power Your Way Program, as more fully described in this procedure and subject to Con Edison's rate schedules, Con Edison shall:

2.3.1. Assist customers to make the transition to retail access by providing educational materials on the ~~Retail Choice~~Power Your Way Program and facilitate customer access to the names of ESCOs registered with the Department of Public Service and approved to do business in Con Edison's service area.

2.3.2. Assist ESCOs in their role in the market by providing information on the ~~Retail Choice~~Power Your Way Program, customer usage, billing and credit information as authorized by customers, and load shapes for customers without hourly metering.

2.3.3. Bill and collect from ESCOs charges for services rendered under the Operating Agreement and Retail Transmission Service Agreement. Bill and collect from Direct Customers for services rendered under the Operating Agreement and Retail Transmission Service Agreement.

2.3.4. Except under a Billing Agency arrangement, bill and collect from retail access participants charges for services rendered under the Retail Access Rate Schedule and the Open Access Transmission Tariff ("OATT").

2.3.5. Respond to inquiries from customers and ESCOs regarding service provided by Con Edison to them.

2.3.6. Monitor the ~~Retail Choice~~Power Your Way Program and, subject to appropriate regulatory oversight, make necessary adjustments.

2.3.7. Provide to the ESCO the billing information for Con Edison's services and transmission services rendered to the ESCO's customer if the ESCO is appointed to be the customers' Billing Agent.

3. CUSTOMER EDUCATION PROGRAM

3.1. Objectives of the Customer Education Program

The customer education program is intended to provide a balanced, objective presentation of electric industry restructuring and the options available to customers through retail access. Its objectives are: (1) to achieve significant awareness of the ~~Retail Choice~~Power Your Way Program among Con Edison's customer base; (2) to help meet the customer participation goals of the program; and (3) to provide the rules and procedures of the program to customers and ESCOs in a convenient and simple manner.

3.2. Key Factors

The following items are key factors in the plan:

- identifying target audiences;
- determining key messages to communicate;
- creating advertisements, direct mail packages and other communications to deliver the key messages;
- identifying the media to be employed to reach the target audiences;
- specifying the timing of the various media implementation; and
- conducting research to evaluate the effectiveness of the program.

3.3. Components of the Customer Education Program

Con Edison will:

- use mass media advertising and public relations to reach all customer segments.
- send direct mail, bill inserts and bill messages to complement mass media advertising.
- establish and operate a toll free telephone number as a "hotline" for retail access queries.
- incorporate Internet technology into the communications efforts, with the intention of providing electronic commerce capabilities to the extent practicable.
- provide community and civic leaders with information that will allow them to address their constituencies with accurate and positive information regarding retail access.

- conduct presentations before existing Consumer Advisory Councils so that those customer segments are informed.
- conduct research supporting the customer education program.
- use multilingual communications to address specific non-English speaking customer groups.
- consider special needs customers in developing communications efforts.

3.4. Schedule for Customer Education Program

The customer education program would proceed in three stages:

3.4.1. Stage 1 – General Education about Retail Access

A multi-media campaign will educate customers about the changes taking place in the electric utility industry and the options available to customers under this new competitive environment. The campaign would include news releases and media interviews, bill inserts, radio and print advertising, information on Con Edison's Internet web site, video programs, a toll-free information phone line and customer/community presentations.

3.4.2. Stage 2 – Specific Educational Programs Designed to Stimulate Customer Participation in Retail Access

The thrust of the customer education program is to provide customers and ESCOs with information about the specific rules and procedures for the ~~Retail Choice~~Power Your Way Program. This would include information about the rates and charges for Con Edison's delivery of electricity supplied by ESCOs. Con Edison expects to use bill inserts, direct mail, video programs, Con Edison's Internet web site, the toll-free telephone line, customer briefings and information packages. Mass media advertising would be used to direct customers to the other media where detailed information can be provided.

3.4.3. Stage 3 – Customer Solicitation and Enrollment Campaign

The goal of the customer education program is increased participation in the program Con Edison expects to complement ESCO promotional activities through the use of bill inserts, direct mail, video programs, Con Edison's Internet web site, the toll-free telephone line, customer briefings and information packages. Mass media advertising would be used to direct customers to the other media where detailed information can be provided.

3.5. Communications with ESCOs

- #### 3.5.1. Con Edison will conduct informational meetings for ESCOs seeking to sell energy and services in the Con Edison service territory to inform them

about the Company's ~~Retail Choice~~Power Your Way Program and to answer any questions they may have. The Internet and e-mail will be used to make information available to ESCOs and to communicate with them.

- 3.5.2. Con Edison will have a designated contact for each ESCO in order to ensure timely responses to information requests and to facilitate the enrollment of customers that the ESCO represents.

3.6. Communications with Other Interested Parties

In addition to direct communications with customers and ESCOs, Con Edison will provide information on the ~~Retail Choice~~Power Your Way Program to community leaders and customer groups. Customer advocacy groups will be solicited to help communicate information about the program to their constituencies.

4. SELECTION AND ENROLLMENT

4.1. ~~Retail Choice~~Power Your Way Program Phases

Program limitations are identified as aggregated peak customer load, in Megawatts (MW). These limitations are defined at the generator bus and include transmission and distribution losses.

4.1.1. Prior Phases

- A. Although the first program phase called for 500 MW of load, the enthusiastic response of customers to the program resulted in the Phase 1 program's being doubled to 1,000 MW. For Phase 2, the Retail Choice Program was set at a total of 2,000 MW. Phase 3 expanded the Program to 3,000 MW.
- B. The Company opened its retail access program to all of its customers on November 1, 2000.
- C. The retail access objectives and phase-in dates and targets specified above will be subject to adjustment, with appropriate Commission oversight, to address developments as they occur.

4.2. ~~Retail Choice~~Power Your Way Program Eligibility

4.2.1. Prior Phase Customers

The Company will not require ESCOs to re-enroll their existing participants. Changes in customer participation status must follow the procedures in effect.

4.3. Ongoing Enrollment

- 4.3.1. Customers in all eligible classes may be enrolled in Phase ~~4~~5 following the procedures in effect.

4.4. Customer Solicitation

- 4.4.1. All customers will be informed of the availability of the program and sent materials describing the program in detail.
- 4.4.2. The materials will include information on enrollment and selecting an ESCO. A list of ESCOs registered with the Department of Public Service to do business in Con Edison's service area, and willing to serve customers, will be provided.
- 4.4.3. Customers are required to enroll through an ESCO, unless they qualify and choose to be Direct Customers. ESCOs will electronically notify Con

Edison of the customers who have enrolled with them to participate in the Retail Choice Program.

4.4.4. Applicants for the ~~Retail Choice~~Power Your Way Program who are new to Con Edison's service area ("New Delivery Customers") will first need to establish a Con Edison account in accordance with Con Edison's Schedule for Electricity Service, P.S.C. No. 9 - Electricity (the "Schedule for Electricity Service") and Company procedures.

4.4.5. Customers purchasing energy from an ESCO may designate only one ESCO to serve an individual electric account, except the customer may also take service under Rider Q of the Schedule for Electricity Service or the EDDS Schedule.

4.5. Customer Participation

4.5.1. Any customer desiring to participate in the ~~Retail Choice~~Power Your Way Program must either qualify as a Direct Customer or authorize an ESCO to enroll the customer in the program. Before enrolling the customer, the ESCO may request authorization to obtain usage, billing and credit information from Con Edison. For usage and billing information, the customer will authorize the ESCO to obtain this information by giving the ESCO the customer's name and account number. For credit information, the customer must provide written authorization to the ESCO.

4.5.2. A customer desiring to be a Direct Customer must contact the Company directly.

4.6. ESCO Actions and Requirements

4.6.1. Each ESCO will:

A. Enter into an Operating Agreement and a Retail Transmission Service Agreement with Con Edison in the forms approved by the PSC and the FERC under which the ESCO may act as a provider upon the provision of any required financial security and the ESCO's agreement to the terms and conditions of all applicable rate schedules and this Operating Procedure. Eligible utilities and their affiliates may participate along with other ESCOs in the ~~Retail Choice~~Power Your Way Program except that, if Con Edison or its affiliates are restricted from participating in retail access programs being conducted by other utilities, participation by such other utilities and their affiliates in Con Edison's program will be similarly restricted.

- B. Represent that it has received and will retain verifiable customer authorization (written, audio, video or other documentation) from each participating customer for Con Edison's release of usage and payment status information and for transfer to the ~~Retail Choice~~Power Your Way Program or between ESCOs. The ESCO will also represent that it has received authorization to act as the customer's agent in connection with transmission service under the NYISO OATT. The customer authorization will include: Name, Account Number, and explicit expression of customer's intent to enroll. If the customer has notified Con Edison that it does not want its usage and billing information released except upon the customer's written consent, the ESCO must provide a copy of the consent before Con Edison will release the information. The ESCO must receive written authorization from the customer in order to request credit information.
- C. ESCO must enter into one or more service agreements with the NYISO. The ESCO must act as a NYISO Eligible Customer or contract with another NYISO Eligible Customer to act on its behalf. The ESCO or its NYISO agent will comply with all NYISO energy and capacity purchasing and scheduling rules.
- D. In connection with any Billing Agency arrangement with customers obtain verifiable authorization from each customer and make such authorization available to Con Edison upon request.
- E. Provide customer enrollment information as it is received, in a manner prescribed by Con Edison.
- F. Represent that it now complies with, and will continue to comply with, all requirements of law (including PSC Opinion No. 97-5, Opinion and Order Establishing Regulatory Policies for the Provision of Retail Energy Services) and any subsequently-adopted regulatory requirements with respect to eligibility as a provider (See Appendix 4).
- G. Treat all information provided by Con Edison about customers, including account number, usage, billing, and credit information, as confidential, and not use this information for any unrelated purposes.

4.7. Enrollment and Participation Questions

Questions from customers or ESCOs about the ~~Retail Choice~~Power Your Way Program will be answered by Con Edison's Corporate Customer Group (CCG), a team of employees trained to assist with such procedural topics as enrollment, metering, billing, usage calculations, changes in provider, and other areas of interest. Each ESCO will have a designated representative to assist with program issues. Information on how to contact these individuals will be provided to customers and ESCOs.

4.8. Post-Enrollment Activities

4.8.1. Enrollment Processing

To initiate the enrollment process, ESCOs will submit all required customer information in a manner prescribed by Con Edison. Con Edison will screen the customer enrollments to verify account numbers, duplicate enrollments, and highlight any other discrepancies. Con Edison will enroll the Customer with the first ESCO and will notify any customer identified as being signed with multiple ESCOs and as well as the ESCOs with which the customer has enrolled. Con Edison will notify customers of their acceptance into the program and ESCOs of the final customer enrollments.

~~4.8.2. ESCO Payment Program~~

~~To encourage the participation in retail access of residential (SC 1, 7) and small non-residential (SC 2) customers, hereafter referred to as "small customers", Con Edison will make payments of \$65 per customer to ESCOs to encourage ESCOs to attract and retain new small customers. Payments may total no more than \$5.2 million (the equivalent of 80,000 new customers) for enrollments during the period beginning May 1, 2001 and ending April 30, 2002.~~

~~Payments will be distributed as follows:~~

~~A. Customers previously enrolled in Phase 1, Phase 2, or Phase 3 of the Retail Choice program will not be counted in payment calculations.~~

~~B. An initial payment of \$25 will be made to the ESCO after the first billing cycle of each new customer's participation, i.e., after the first delivery service bill is issued to the customer. Every month starting at the end of July 2001 through April 2002, the Company will award the \$40 per customer balance for the number of new small customers participating in the program for a minimum of three billing cycles. Thereafter, the ESCO will be paid \$40 for each additional customer enrolled who has met the minimum three billing cycle requirement.~~

~~ESCOs will have the responsibility to distribute a minimum of \$25 to the customer. The Company will inform eligible retail access customers that payment will be made by the ESCO.~~

~~The Company will file quarterly reports to the Public Service Commission detailing the total number of payments provided each month to each ESCO.~~

4.8.34.8.2 Bill Reductions

Bill reductions stated below will be in effect for all customers, new and existing, taking service under the Retail Access Rate Schedule ~~for one year beginning on and after~~ May 1, 2001 and ending on the earlier of the effective date of unbundled rates approved by the Commission in Case 00-M-0504 or any related proceeding and April 30, 2003. Bill reductions will be implemented as a reduction to the customer's bill before the application of any applicable sales taxes as follows:-

- A. Bills for ~~Retail Choice~~Power Your Way customers, other than small customers, will be reduced by \$.002 (2 mills) per kWh of billed usage beginning May 1, 2001 through August 31, 2001. ~~From September 1, 2001 through April 30, 2002~~Thereafter, bills for these customers will be reduced by \$.001 (1 mill) per kWh of billed usage.
- B. Bills for ~~Retail Choice~~Power Your Way customers who are small customers will be reduced by \$.002 (2 mills) per kWh of billed usage ~~beginning May 1, 2001 through April 30, 2002~~.

5. CUSTOMER TRANSACTIONS AND BILLING

Retail access participants will generally receive two bills: one from Con Edison for delivery service and any other Con Edison provided service, and a separate bill from their ESCO for electric energy supply. Where a customer designates an ESCO to act as its Billing Agent, Con Edison will forward necessary billing information to the ESCO to permit the customer to receive one bill from the ESCO for both Con Edison services and ESCO services. Customers of ESCOs participating in Con Edison's pilot consolidated utility billing program will receive one bill from Con Edison for both Con Edison and ESCO services.

5.1. Delivery Service Billing (Con Edison to Customer)

- 5.1.1. Con Edison will issue retail access customers' bills for delivery service based on the Company's existing meter reading cycle.
- 5.1.2. Customers will be responsible for payment of their delivery service bills in accordance with existing tariffs, rules and procedures (e.g., HEFPA, non-residential rules).
- 5.1.3. Provided that the ESCO and the Company have a Billing Agency Agreement (Section 5.4), customers may designate their ESCO as their Billing Agent for the receipt of Con Edison's bills, mandatory bill inserts, including the "Summary of Customer Rights Notice" and the "Annual Gas Safety Notice", and any messages concerning delivery service that would appear on the bill. Con Edison will confirm the authorization in a letter to each customer upon receipt of notice of appointment from the ESCO. Customers are responsible for all account transactions and payment of all bills for Con Edison services, except that Con Edison will not attempt to collect payment directly from a Customer for any amount that the Customer already paid the Billing Agent.

5.2. Electric Energy Supply Billing (ESCO to Customer)

- 5.2.1. The MDSP will electronically make available to ESCOs, subject to appropriate confidentiality measures, their customers' individual energy consumption (and demand if applicable) when the data is acceptable for customer billing. An indication whether the information is based on an actual or estimated meter reading will also be provided. All subsequent changes or corrections and adjustments to previously supplied data will be made available to the ESCOs when the data is acceptable for customer billing.
- 5.2.2. ESCOs will be responsible for the billing of energy supply (and other services they may provide) and will be responsible for all collection and payment processing associated with their billing.
- 5.2.3. ESCOs will be responsible for handling all customer inquires regarding

their services and energy charges.

5.3. Other Transactions

5.3.1. Request for Historic Usage, Billing and Credit Information

- A. Any customer wanting Con Edison to release usage and billing information to an ESCO must provide the ESCO with authorization prior to the ESCO's request to Con Edison to release the information. A customer wanting the Company to release credit information must provide written authorization. The ESCO must retain the authorization on file.
- B. The ESCO will provide, in a prescribed electronic format, a list of those customers (by name and account number) for which it is requesting data.
- C. Con Edison will provide usage, billing and credit information electronically within five days after request from the ESCO. Usage information will be energy (kWh) and demand (kW) data for ~~24-12~~ months but no longer than the life of the account. Credit information will be limited to whether or not the customer had late payments and/or had service discontinued for nonpayment during the past 12 months.
- D. If the customer requests Con Edison not to provide usage or billing information, the Company will not provide the ESCO with such information unless the customer provides written authorization.

5.3.2. Establishing a Customer in the ~~Retail Choice~~Power Your Way Program

- A. Customers that are currently participating in ~~Retail Choice~~Power Your Way may continue in the program without re-enrolling.
- B. Customers enrolling in ~~Retail Choice~~Power Your Way will select an ESCO and enroll with that ESCO. The ESCO will electronically provide to Con Edison, in a prescribed electronic format, each enrolled customer's name and account number. If this information is insufficient to verify the customer's account, or the account is ineligible for enrollment, and the enrollment request is rejected, Con Edison will inform the ESCO of the reasons that the enrollment was rejected.
- C. Con Edison will confirm that the customers have active Con Edison accounts. If a customer does not have a Con Edison account at the specific location to be enrolled, the Company will inform the ESCO that the ESCO or the customer must contact the Company directly to establish an account. Once a Con Edison account has been established, the ESCO may then initiate the normal enrollment process.

- D. During the enrollment process, a customer who is enrolled by more than one marketer will be enrolled with the first marketer, and both marketers and the customer will be notified of the conflict.
- E. For enrollment of customers, Con Edison will change the customer's billing service classification and code the account with the ESCO's identification code as of the cycle billing date following the Company's receipt of acceptable enrollment information. Until the effective date of transfer to the ~~Retail Choice~~Power Your Way program, the customer will continue to receive bundled service.
- F. Con Edison will notify customers in writing of their acceptance into the ~~Retail Choice~~Power Your Way Program through a notice sent at the time of acceptance.
- G. Con Edison will electronically notify ESCOs of their customers' enrollment status and effective date of enrollment.

5.3.3. Retail Access Customer Relocation Within Con Edison's Service Territory

- A. A customer moving from one address to another in the Con Edison service territory must apply or have its ESCO apply to Con Edison for service (Section 5.3.4). The customer has the option to take bundled service from Con Edison at the new address or continue to purchase energy service from an ESCO.
- B. If the customer wants bundled service at the new address, or if an ESCO does not notify the Company that the customer wants retail access service at least ~~5 business 15~~ days (~~10 days for non-residential customers~~) prior to the turn on date, the account will be established under bundled service as of the turn-on date.
- C. If an ESCO notifies Con Edison to enroll the customer at the new address at least ~~5 business 15~~ days (~~10 days for non-residential customers~~) prior to the turn-on date, the turn-on date will be the effective date of enrollment, ~~and the switching fee shall be waived.~~
- D. If an ESCO notifies Con Edison to enroll the customer at the new address less than ~~5 business 15~~ days (~~10 days for non-residential customers~~) prior to the turn-on date, but at least 10 calendar days prior to the cycle date, the customer will take service under bundled service until the first cycle date following notification, which will be the effective date of enrollment.

5.3.4. Customer Establishes New Con Edison Account

- A. A customer establishing a new account in the Con Edison service territory must apply or have its ESCO apply to Con Edison for service. A customer may request new service through the Company's Customer Assistance Center, at 1-800-75-CONED.

ESCOs may request new service by calling the Retail Choice Group at 1-877-266-3342. A completed oral, written or electronic application, satisfactory to the Company, must be provided. The ESCO must also submit as identification the unique code number assigned to the ESCO. The Company will acknowledge receipt of the application for service by providing the ESCO with the new account number within 5 calendar days.

- B. The customer or its ESCO shall provide information about any special needs customer. (See glossary.)
- C. The customer has the option to take bundled service from Con Edison or purchase energy service from an ESCO, within the limitations of the ~~Retail Choice~~Power Your Way Program phase-in process. If the customer wants bundled service, or if an ESCO does not notify the Company that the customer wants retail access service, the account will be established under bundled service as of the turn-on date.
- D. If an ESCO supplies a completed application to Con Edison to enroll a ~~residential~~ customer at least ~~5-business~~15 days prior to the turn-on date, the turn-on date will be the effective date of enrollment, provided that no construction is required and the customer has met all tariff requirements. If construction is required, service will commence after all connections are complete. ~~Applications for non-residential service must be submitted at least 10 calendar days prior to the turn-on date.~~
- E. If an ESCO notifies Con Edison to enroll the customer after the turn-on date, the customer will take service under bundled service until the first cycle date following notification, which will be the effective date of enrollment.

5.3.5. Transfer of Customer From One ESCO to Another

- A. Any customer wanting to transfer between ESCOs must have the new ESCO contact Con Edison for enrollment. The transfer will be effective on the first cycle billing date following the ESCO's notification to the Company. The notification must be received by the Company at least ~~10~~15 calendar days prior to the cycle date or a special meter reading date arranged by the new ESCO. ~~at least two business days prior to the switch date.~~
- B. The Company shall acknowledge receipt of the switch notice within 5 calendar days.
- C. When the Company receives the new ESCO's notification, Con Edison will so notify the customer and the incumbent ESCO at least 5 calendar days prior to the switch date.
- D. The Company will notify the new ESCO that the customer's

account has been added to its Con Edison account roster. ~~A switching fee of \$10 will be assessed to the customer for each voluntary switch except for the first switch that occurs during the 12 months following the customer's initial enrollment in the Retail Choice program.~~

- E. If the customer indicates that it did not authorize a change of ESCO, the new ESCO will be notified electronically that the customer will not be assigned to it, and the incumbent ESCO will be notified electronically that the customer wishes to remain with it. ~~A switching fee of \$10 will be assessed to the ESCO that initiated the change that was not authorized by the customer, and the customer's account will be credited for any switching fee that was assessed to the customer.~~

5.3.6. Customer Closes Con Edison Account

- A. If a customer closes its Con Edison account, Con Edison will send the customer a final bill according to Company procedures.
- B. The Company will notify the customer's ESCO electronically when the customer notifies the Company that the customer is moving or otherwise closing its account.

5.3.7. Customers Requesting Con Edison Bundled Service

- A. When a Retail Choice Power Your Way customer notifies the Company at least 10-15 days prior to the next cycle billing date that it requests bundled service, Con Edison will close out the customer's retail access account with the ESCO as of the next cycle billing date. A Customer may request bundled service based on a special meter reading, performed by the customer's MDSP, provided that the scheduled date is no less than 5 days after the request. A notice confirming the transfer to bundled service will be sent to the customer when the account record is changed. ~~The customer will be charged a \$10 switching fee, except for the first voluntary switch that occurs during the 12 months following the customer's initial enrollment in the Retail Choice Program.~~
- B. The Company will notify the customer's ESCO electronically that the customer has transferred to bundled service as of the effective date when the account record is changed.
- C. A customer's return to bundled service is subject to the Schedule for Electricity Service's terms and conditions for service and the Commission's rules for residential and non-residential service, as applicable.
- D. Con Edison reserves the right to establish a minimum term of service for customers under the Schedule for Electricity Service in

connection with transfers from retail access service to bundled service. Con Edison will file tariff revisions instituting a minimum term requirement if, based on the Company's experience, the Company determines that the system is being manipulated by switching between retail access service and bundled service, e.g., to take advantage of short-term or seasonal rate differentials.

5.3.8. Con Edison Discontinues Service for Non-Payment

- A. Con Edison will issue Notices of Termination to customers and terminate service according to HEFPA, PSC rules, and Company procedures.
- B. Upon issuance of the final bill following service termination, Con Edison will notify the ESCO that the customer is no longer receiving service.

~~5.3.9. ESCO Unenrolls Customer~~

~~When an ESCO unenrolls a customer within three months of the customer's enrollment date for reasons other than customer request, the ESCO will be assessed a \$10 unenrollment fee.~~

5.3.10. Discontinuance of Service

Only Con Edison may physically disconnect a customer's service.

~~5.3.11. Switching Fee Waivers~~

- ~~A. There will be no charge for a customer's switch from utility bundled service at any time.~~
- ~~B. There will be no switching fees charged to customers for involuntary switches.~~
- ~~C. There will be no fee charged for the first voluntary switch from an ESCO to another ESCO or to utility bundled service during the first twelve months following a customer's initial participation in Retail Choice.~~

5.3.11. Notification of Unauthorized Switches

- A. Con Edison will report monthly all slamming (see glossary) to the Department of Public Service.

5.4. ESCO as Billing Agent

5.4.1. Billing Agency Policy

A Billing Agency arrangement is one in which the customer may authorize an ESCO to act as a Billing Agent to receive the customer's bills from the Company, consolidate them with the ESCO's charges and rebill the entire amount to the customer.

- A. Provided that the Company permits Billing Agency, the ESCO and its customer may enter into a Billing Agency arrangement if the ESCO agrees:
1. To direct all customer payments to a lockbox and the ESCO provides security equal to 22.5 days of its customers' projected peak period requirements over the coming twelve months priced at the Company's appropriate tariff rate. If the ESCO receives any payment intended for the lockbox, it must forward all such payments to the lockbox within 24 hours for processing; or alternatively,
 2. To make payment of the Con Edison charges for its Billing Agent accounts within 24 hours of receipt of payment from its customers, and provide security equal to 45 days of its customers' projected peak period requirements over the coming 12 months priced at the Company's appropriate tariff rate. Notification (EMAIL notification detailing customer remittances) and payment (wire transfers) to Con Edison must be made concurrently. The Company reserves the right to audit that the ESCO is making payment for its Billing Agent accounts within 24 hours of receipt of payment from its customers.
- B. Where a Billing Agency arrangement is in effect, the ESCO must comply with the conditions listed below:
- The customer must choose the Billing Agency arrangement before it may be used as the mechanism to bill the customer.
 - The ESCO must obtain authorization from the customer appointing it as the Billing Agent. The customer authorization must be verifiable, and be retained by the ESCO for at least one year after termination of the agency authorization. A copy must be provided to the Company upon request. As part of the authorization process, the ESCO must inform the customer that the agent will receive all bills or billing information, mandatory bill inserts and bill messages.
 - ESCOs must include a clear, plain language explanation of Billing Agency and its implications in their standard contract/disclosure statements, if such an arrangement is to be offered.
 - ESCOs must distribute annually, to each customer, the "Summary of Customer Rights Notice", and to each gas customer, the "Annual Gas Safety Notice", which will be provided to them, in bulk, by the Company.

- Within 48 hours after Con Edison's electronic transmission of the billing data to the ESCO, the ESCO will bill all accounts for which data has been transmitted except those for which notice of an alleged error or problem is given. If the ESCO promptly contacts the Company regarding transmission errors or billing data problems caused by the Company that affect individual customer bills, Con Edison will delay any credit action on the accounts of the customers whose bills may be affected until one billing cycle has elapsed from the next cycle read date. The contact from the ESCO shall be by electronic (e.g., e-mail) notice to the Company sent within 48 hours after Con Edison's electronic transmission of the billing data to the ESCO and must contain detailed documentation of the alleged error or problem. For any account for which notice was given, within 48 hours after Con Edison's electronic retransmission of billing data in resolution of any transmission or billing data problem identified, ESCO will bill such account.

For the purposes of this subparagraph, all time periods are measured in calendar days and any deadline that falls on a Saturday, Sunday, or public holiday shall be extended to the next business day.

- C. Where the ESCO has a Billing Agency arrangement, the Company will:
- provide the ESCO with the "Summary of Customer Rights Notice" and the "Annual Gas Safety Notice", in bulk, for distribution by the ESCO to customers annually.
 - incorporate bill messages regarding a customer's specific bill (e.g., messages regarding adjustments, level billing plan) into the billing information transmitted electronically.
 - send a confirmation letter to the customer which also informs the customer what communications to expect from the Company, and what to expect from the Billing Agent.
 - send to the customer all disconnect notices and all other communications for specific customer actions or requests except meter-related actions or requests, which may be sent by the customer's MSP or MDSP where applicable.
 - adjust the due date of customers' bills, to allow for any delays in transmitting billing data caused by the Company.
 - collect Financial Security from the ESCO as described in Section 7.3.
 - continue to accept payment of delivery service charges at all authorized payment locations where payments by customers who have not selected Billing Agency are accepted.

- develop customized billing and collection arrangements, upon mutual agreement with the ESCO.
 - notify the customer of the failure of an ESCO to remit the customer's payment to the Company on time.
 - recover losses that may result from such non-payments from available security and defer any remaining balances.
- D. The Company may terminate a Billing Agency arrangement and send its invoices for delivery charges directly to the ESCO's customers after providing 5 calendar days' notice to the ESCO if:
- the ESCO has not paid the Company on a timely basis for its customers' charges due Con Edison, unless such payment is made in full before the expiration of the 5 calendar day notice period (note: untimely payments may be a basis for a termination if a pattern of such payments develops); or
 - the ESCO's security is no longer adequate to meet the Company's credit exposure, and the ESCO fails to post the necessary additional security within the 5 calendar day notice period; or
 - the Company draws on the ESCO's security deposit and the ESCO does not reinstate the required security within 5 calendar days; or
 - the ESCO has on several occasions failed, after notice from the Company, to meet its other obligations as Billing Agent.

5.4.2. Establishing ESCOs as Billing Agent

Agents can act on behalf of single service or dual service customers for their electric service, their gas service or both services.

A. Dual Service Accounts

If the ESCO will be acting as the Agent for both the gas and electric services, the bill for both services will be sent to the Agent. The Con Edison account will be noted with the ESCO identification code and agency designation.

B. Separating Dual Service Accounts

An ESCO designated as Billing Agent by a customer taking only retail access service for one service or taking retail access service for both electric and gas service but designating the ESCO as Billing Agent only for retail access service for one service may request that the Company separate the customer's account by service so that the ESCO may act as Billing Agent for one service only and not as Billing Agent for the customer's entire account. The Company will charge the ESCO the Account Separation Fee for the separation of the customer's account. If the customer with a dual service electric and

gas account takes retail access service for both electric service and gas service but from different ESCOs and, upon initial enrollment or thereafter, but before the Company takes action to separate the account on the request of one ESCO, authorizes each ESCO to be the Billing Agent only for the service provided by that ESCO, the Company will separate the customer's account by service and charge each ESCO one-half of the applicable fee.

The Corporate Customer Group will establish the new account within 6 business days of the ESCO request and advise the Billing Agent of the new customer account number applicable to the service for which the ESCO is Billing Agent. A notification letter will be sent to the customer with the new account number. The customer will continue to receive directly from the Company the bill for the service not handled by the ESCO, unless the customer has authorized another ESCO as Billing Agent for that service.

C. Single Service Accounts

Accounts for electric or gas service will be handled as described in Section 5.4.2.A.

5.4.3. Customer Notification

Upon receipt of notification from the ESCO, the Company will send a letter to the customer confirming that the ESCO is now the customer's Billing Agent. The letter will confirm to the customer that the Billing Agent will receive all bills, mandatory bill inserts including the "Summary of Customer Rights Notice" brochure, and bill messages. It will also remind the customer that the customer is responsible for the payment of the Con Edison charges.

5.4.4. Financial Security

The Company will require an ESCO acting as Billing Agent to provide financial security as described in Section 5.4.1.

5.4.5. Billing Presentation Options

Until statewide EDI standards are implemented, the ESCO may request that the Company send customer billing information in the usual paper bill format or electronically by Electronic Data Interchange (EDI) as used by Con Edison. Sufficient notification must be provided by the ESCO to the Company, if it chooses to use EDI for billing, to ensure that the interface is adequately tested and is working properly. If the agent doesn't request EDI transmission, the Company will send paper bills to the ESCO. Once statewide EDI standards are implemented, the Company will discontinue supplying paper bills to the ESCO and discontinue its current EDI offering.

A. EDI Billing

If the ESCO requests that its customers' delivery service billing information be sent to it by EDI, the Company will send the standard

EDI Bill File (TS810) to the ESCO on the day the customer's bill is produced. This file will contain all the bill messages that would normally appear on the customer's paper bill. Any mandatory bill enclosures associated with these bills will be sent in bulk to the ESCO for distribution to the customer.

B. Paper Billing

If the ESCO chooses paper billing or fails to choose EDI billing, the Company will send to the ESCO its customers' delivery service bills and inserts by trip.

5.4.6. Bill Payment Method

A. Payment must be made by wire transfer. Customer transaction information must be provided as an Electronic Mail Bill Payment File (EMBPF). The EMBPF must be in a standard EXCEL format including the account number and the dollar amount for each payment and a total showing the funds being sent by wire transfer. Wire transfers must be made on the same day that the EMBPF is sent.

B. Once EDI is implemented, the Company will accept only EDI payments using the TS820 file format.

5.4.7. Contents of ESCO 's Bill

The ESCO is required to provide its customers with the appropriate Con Edison telephone number to call in an emergency.

5.4.8. Deferred Payment Agreements

The Company will continue to make deferred payment agreements available to Retail Choice Power Your Way customers; however, such customers are not eligible to be billed under an agency arrangement until the PSC EDI proceedings are completed and uniform practices for EDI have been established and implemented.

5.4.9. Credit Notices

All Company credit notices issued on the customer's cycle bill will be sent to the ESCO. If the credit notice is a "final notice of termination" or a "final termination update notice", the notice will also be sent to the customer's service address, and mailing address, if any. The Company will continue to employ normal credit notice and field collection actions for all accounts.

5.4.10. Customer Contacts

ESCOs will include their telephone number on all customer bills and will be responsible for responding to customer contacts regarding their supply bills and associated ESCO charges. If the ESCO chooses to handle customer inquiries regarding Con Edison services and charges, the Company will provide a single

point of contact to provide the information the ESCO needs to respond to customers' inquiries. If the ESCO chooses not to handle such inquiries, the ESCO should direct customers to Con Edison.

If an ESCO learns that a residential customer or someone in the customer's household has life sustaining equipment, the Billing Agent must notify the Company in writing so that the information can be verified and the customer's account noted.

5.4.11. Final Accounts

If the customer is moving out of the service territory, the ESCO must provide the Company with the forwarding address of the customer if the ESCO has that information. If a customer relocates within the Company's service territory and will be responsible for electricity at this new location, the customer or its ESCO must contact the Company to apply for service at the new address.

A. Keep the ESCO for the New Account

If the customer wants to remain with the current ESCO as provider and Billing Agent, the ESCO must apply for service and enroll the customer by contacting the Corporate Customer Group to establish the account, to process the enrollment for ~~Retail Choice~~Power Your Way and to establish the ESCO as the Billing Agent for the customer.

B. Receive Bundled Service from Con Edison

If the customer wants to receive bundled service from the Company, the customer must contact the Company. Con Edison will establish the customer's account at the new address as bundled service.

C. Select Another ESCO and Billing Agent for the New Account

If the customer wishes to change ESCO and Billing Agent, the new ESCO must apply for service and enroll the customer by contacting the Corporate Customer Group to establish the account, to process the enrollment for ~~Retail Choice~~Power Your Way and to establish the new ESCO as the Billing Agent for the customer.

5.5 Consolidated Utility Billing Services

In advance of the effectiveness of the Commission's Uniform Retail Access Billing and Payment Processing Practices (the "Uniform Billing Practices"), the Company may offer Consolidated Utility Billing to ESCOs. The Company will announce to all ESCOs in its service territory when such billing will be available for any customer in the retail access program. The charge to the ESCO for billing services and the billing services credit to customers are stated in the Retail Access Rate Schedule. When Electronic Data Interchange (EDI) standards are approved by the Commission and operational for consolidated utility billing, the Company's consolidated utility billing service will be modified to conform to the requirements of EDI and the Uniform Billing Practices.

6. Discontinuance of ESCO's Service

6.1. Voluntary Discontinuance of ESCO Operations in the Company's Service Area

6.1.1. An ESCO may discontinue at will its operations (in whole or significant part) in the Company's service territory, upon submission of a written notice to the Company and the ESCO's customers at least 15 calendar days prior to the discontinuance date. The notice shall inform them:

- A. either that the discontinuance shall occur at the first meter reading date after the notice period expires (if timely), or that an estimated reading will be used for the discontinuance date;
- B. of the customer's option either to select another ESCO to be their energy service provider or to return to bundled service;
- C. that if the customer selects another ESCO, that ESCO will file a switch request with the Company on the customer's behalf, ~~and there will be no fee charged for the switch;~~ and
- D. that after the discontinuance and unless/until a new ESCO is selected and the switch is completed, service will be provided by the Company under its bundled service rate, unless the Company has notified the customer that delivery service will be terminated on or before the discontinuance date. ~~and~~

~~E. that there will be no switching fee charged by the Company to the customer for a switch back to bundled service, whether as an interim measure until a new ESCO is selected or as a permanent action.~~

6.1.2. The Company will, within 5 calendar days of receipt of the notice from the ESCO, send a notice to the ESCO's customers containing the same information as required above, and a list of eligible ESCOs with telephone numbers who have indicated a willingness to serve retail customers in the Company's service area.

6.1.3. Sample copies of the form of the notices to customers under this process shall be provided to the Department of Public Service for review at least five calendar days before the letters are sent to customers.

6.1.4. If the Company learns that an ESCO has discontinued operations in its service territory without giving the proper notice to its customers and to the Company in accordance with the above requirements prior to discontinuing operations, the Company shall immediately inform the PSC and then, if directed, notify all of the ESCO's customers as required above. In the notification, the Company shall also advise the customers

that effective immediately their service is being provided by the Company under the bundled service rate and that payment for such service from the date of the notice until a subsequent switch takes place must be made to the Company.

- 6.1.5. If the ESCO does not give notice to its Retail Customers and to the Company in accordance with the above requirements prior to discontinuing operations, the ESCO may be determined ineligible by the New York State Public Service Commission to sell electricity or natural gas to retail customers in New York State and/or may be assessed a monetary penalty by the New York State Public Service Commission.
- 6.1.6. The ESCO shall remain responsible for payment or reimbursement of any and all sums owed to the Company.
- 6.1.7. Upon receipt of a switch request from a subsequent ESCO following the discontinuance notice, the Company will verify the intended switch with the customer (i.e., the Company will notify the customer within 5 calendar days of the switch request).
- 6.1.8. If a more expeditious discontinuance process is judged to be needed in a specific situation, the ESCO may request such expedited treatment upon a showing of need to the Public Service Commission or its designee, who shall have the authority to grant such a request. The Commission or its designee may also, for good cause, initiate an expeditious discontinuance process on its own motion. Utilities shall also have standing in any such processes.

6.2. Discontinuance of Sales by ESCO to Individual Retail Customer

- 6.2.1. An ESCO may discontinue sales to individual retail customers in the Company's service territory upon submission of a notice to those individual customers and to the Company at least 15 calendar days prior to the discontinuance date but no later than 25 days after the customer's last cycle meter reading date. The notice to retail customers shall inform them:
 - A. of the date of the discontinuance (which will be the customer's next meter reading date);
 - B. of their option either to select another ESCO to be their energy service provider or to return to bundled service;
 - C. that if they do select another ESCO, that ESCO will file a switch request with the Company on their behalf, ~~and there will be no fee charged for the switch~~; and
 - D. that after the discontinuance and until a new ESCO is selected and the switch is completed, service will be provided by the Company under its bundled service rate, unless the Company has

notified the customer that delivery services will be terminated on or before the discontinuance date.

- 6.2.2. Upon receipt of a switch request from a subsequent ESCO following the discontinuance notice, the Company will verify the intended switch with the customer (i.e., the Company will notify the customer within 5 calendar days of the switch request).

6.3. Involuntary Discontinuance of an ESCO

- 6.3.1. The Company shall have the right to discontinue an ESCO's participation in the Company's ~~Retail Choice~~Power Your Way Program:

- A. where the Company determines that it is necessary or desirable for safety or for system reliability reasons (including, but not limited to, the proper scheduling and delivery of electric energy and capacity to meet the needs of customers);
- B. where the ESCO fails to comply with the terms and conditions of the Company's tariff or Operating Agreement;
- C. where there is a continued pattern of attempts to transfer retail customers without proper customer authorization (slamming);
- D. where the NYISO or the FERC takes action to suspend or terminate the ESCO's service agreement under the NYISO's Open Access Transmission Tariff;
- E. where a court of competent jurisdiction issues an order authorizing discontinuance of the ESCO;
- F. where the PSC has determined that the ESCO is not eligible to sell electricity to retail customers in the state, including:
 - 1. the ESCO's failure to adhere to the policies and procedures described in its disclosure to customers;
 - 2. failure to comply with prescribed consumer protections;
 - 3. an unacceptably high volume of customer complaints;
 - 4. failure of the ESCO to comply with applicable ISO and Power Exchange requests;
 - 5. failure to comply with prescribed reporting requirements;
 - 6. failure to comply with oversight requirements;
 - 7. failure to apprise the PSC of all material changes in the information in the applicant's initial filing;

8. failure to comply with the voluntary discontinuance requirements set forth above, or
 9. failure to comply with other applicable requirements of the PSC including those in Opinion No. 97-05; Opinion and Order Establishing Regulatory Policies for the Provision of Retail Energy Services, issued May 19, 1997, in Case 94-E-0952; and in the Order Clarifying Consumer Protections, issued October 25, 1996, in Case 93-G-0932, et.al.; or
- G. where the ESCO fails to remit payments to Con Edison when due, does not pay the bill within 10 calendar days after being notified of the non-receipt of payment, and the available security is or will be insufficient to cover the amount of default.
- 6.3.2. The Company may initiate the process to discontinue an ESCO by providing the ESCO a notice (with a copy to the PSC) that advises the ESCO that its right to switch additional customers is suspended immediately. The notice shall also state that unless the stated cause for the discontinuance is corrected within 10 calendar days from the ESCO's receipt of the notice, or the PSC, or its designee, requires otherwise, the ESCO's existing customers will be notified that the ESCO will be discontinued. The discontinuance will take place no longer than 15 calendar days after the end of the designated period to cure the problem except that in cases of non-payment of invoices, the discontinuance will take place at the end of the designated period. The discontinuance process will stop if the ESCO corrects the problem within the 10 day period unless otherwise directed by the PSC. If a more expedited process is deemed necessary for any discontinuance, the process outlined below may be followed.
- 6.3.3. The Company may suspend or discontinue an ESCO immediately if an imminent risk exists that compromises the safety or operational reliability of the Company's system, or if so directed by the PSC, or its designee. Notices shall be sent to customers as specified below.
- 6.3.4. The Company shall send a notice to the ESCO's customers within 5 calendar days to inform them:
- A. that the discontinuance shall (or did) occur at the first meter reading date, or another date where a reading (actual or estimated) is provided for use on the discontinuance date.;
 - B. of their option either to select another ESCO to be their energy service provider or to return to bundled service;
 - C. of the names and telephone numbers of eligible ESCOs that have indicated a willingness to serve retail customers in the Company's service territory;

- D. that if they do select another ESCO, that ESCO will file a switch request with the Company on their behalf, and there will be no fee charged by the Company for the switch; and
 - E. that after the discontinuance and unless/until a new ESCO is selected and the switch is completed, service will be provided by the Company under its bundled service rate, unless the Company has notified the customer that delivery services will be terminated on or before the discontinuance date.
- 6.3.5. Sample copies of the form of the notices sent to customers shall be submitted to the Department of Public Service for review at least five calendar days before the letters are sent to customers.
- 6.3.6. The Company may request expedited treatment upon a showing of need to the PSC or its designee, who shall have the authority to grant such a request. The PSC or its designee may also, for good cause, initiate an expeditious discontinuance process without a request by the Company. The ESCO shall have standing in any such process.
- 6.3.7. ESCOs may contest any suspension or proposed discontinuance by use of the Dispute Resolution Process (Section 7.6) if that process is initiated in a timely manner. If an ESCO contests a suspension based on imminent safety or reliability risk (Section 6.3.3), and the dispute is resolved in the ESCO's favor, the ESCO will then be eligible to provide service.
- 6.3.8. The ESCO shall remain responsible for payment or reimbursement of any and all sums owed to the Company.
- 6.3.9. Upon receipt of a switch request from a subsequent ESCO following the discontinuance notice, the Company will verify the intended switch with the customer (i.e., the Company will notify the customer within 5 calendar days of the switch request).
- 6.4. Discontinuance of a Direct Customer
- A Direct Customer may voluntarily discontinue securing its own energy supplies by notifying the Company of its intent to discontinue acting as a Direct Customer and to switch to an ESCO or to return to bundled service. A Direct Customer may be involuntarily discontinued for the reasons, and in the same manner, as an ESCO would be discontinued, to the extent applicable (see Section 6.3 above), except that notices to customers are not required where the Direct Customer is a single customer.
- 6.5. Assignment of ESCO Contracts
- 6.5.1. An ESCO may assign customer contracts to other eligible ESCOs, and transfer the rights to serve those customers, provided that the ESCO's contracts and disclosure statements clearly state that such assignments and transfers may occur. The assignment and transfer may be initiated upon submission of a notice to the Company, the PSC and the ESCO's

customers at least 15 calendar days prior to the transfer date. The notice to the Company and the PSC shall include a copy of the assignment document(s) executed by officers of all the involved ESCOs and a copy of the notice being sent to customers. The notice to retail customers shall inform them:

- A. of the date(s) of the assignments;
- B. that service will be provided by the assigned ESCO;
- C. of any changes in the contract or disclosure statement terms (to the extent permitted by the existing contracts or disclosure statements), including ministerial changes such as telephone numbers, mailing addresses, etc.

- 6.5.2. The Company will, within 5 calendar days of the receipt of the notice from the ESCO, also send a notice to the ESCO's assigned customers advising them that transfer requests have been received and will be executed.
- 6.5.3. If the Company learns that an ESCO has assigned customers and transferred service to other ESCOs without giving the required notices (in contracts and/or disclosure statement and in the letters to be sent at least 15 days prior to the transfer of service) to Retail Customers and to the Company in accordance with the above requirements, the Company shall immediately inform the DPS and then, if directed, notify all of the ESCO's customers in accordance with the procedures noted above.
- 6.5.4. The assignment document(s) (copies of which shall be provided to the Company and the PSC) shall indicate which party will be responsible for payment or reimbursement of any and all sums owed to the Company.
- 6.5.5. The ESCO may request an expedited transfer process upon a showing of need to the PSC, or its designee, which shall have the authority to grant such a request. The Company shall have standing in any such process.

6.5.6 Assignment in the event of discontinuance

In the event of a voluntary or involuntary discontinuance of service to all or substantially all its customers, evidenced by written notice to the Company given less than 15 days prior to discontinuance of service, by an ESCO that has provided its residential (SC 1-RA and 7-RA) and small non-residential (SC 2-RA) customers with a disclosure statement that clearly states that assignment may occur, Con Edison will assist the ESCO in finding a potential ESCO assignee at the ESCO's request. Con Edison will notify all ESCOs having operating agreements with the Company about the availability of the customers. If one or more ESCOs expresses an interest in receiving an assignment (that is, being an "assignee ESCO") of the customers of the discontinuing ESCO ("assignor ESCO"), the Company will arrange for assignment to each assignee ESCO on a proportionate and non-discriminatory basis and using

reasonable efforts to arrange for the assignment of any aggregated customer group to a single assignee ESCO. The Company and the assignee ESCO(s) will arrange for the enrollment of the assigned customers in the Company's retail access program. The assignee ESCO(s) will be responsible for honoring the terms of the customer's existing contract with the assignor ESCO for the duration of the term of such contract. Customers assigned pursuant to this procedure will be notified by the assignee ESCO and the Company that the customer's contract has been assigned and that the customer may accept the assignment without taking any action, provided, however, if the customer chooses, he or she may within 15 days of the date of the notice select another ESCO or notify the utility of his or her desire to return to full utility service; no customer rejecting the assignment will be liable to the assignor ESCO for any contract cancellation or penalty charge if notice is given within the notice period provided. Nevertheless, customers rejecting assignment may be required to take service from the assignee ESCO for one or more billing cycles depending on when the customer provides notice to the utility and the newly selected ESCO, if any, enrolls the customer (at least 15 days prior to the customer's next billing cycle date).

If the discontinuance is associated with the ESCO's bankruptcy, the discontinuing ESCO must provide Con Edison with a copy of the ESCO's written rejection of any executory customer contract involved in a proposed assignment.

6.6. Anti-slamming Measures

ESCOs that switch customers without the customers' authorizations will be fully responsible for all wrongful charges applied to the customers' bills and for all reasonable costs incurred by the Company. Such ESCOs' eligibility to serve retail customers in New York State may also be terminated by the PSC and/or a monetary penalty may be imposed.

7. SERVICE TO ESCOs

7.1. Operating Agreement

Any ESCO desiring to serve retail access customers will enter into an Operating Agreement with Con Edison in the form provided in Appendix 7 and meet the requirements in Appendix 4. A Direct Customer will enter into an Operating Agreement with Con Edison in the form provided in Appendix 5. ESCOs and Direct Customers must also satisfy the terms and conditions of the NYISO Open Access Transmission Tariff (OATT).

7.2. Services to ESCOs

7.2.1. The Company will:

- assign an account number to the ESCO.
- Electronically make available ~~two years~~one year of customer usage and billing information (consisting of service class, and whether a reading is actual or estimated, in addition to the consumption, demand, if applicable, and dollars billed) for those customers who authorize the ESCO to obtain this information. Additional usage history will be provided for a charge.
- indicate whether the customer had late payments and/or had service discontinued for non-payment during the last 12 months for those customers who authorize the ESCO in writing to obtain credit information.
- for meters controlled by Con Edison, provide for the current billing cycle customer hourly usage information for customers who have interval meters, and billing determinants for customers who do not have hourly meters. This information will be provided when the data is acceptable to the Company for billing.
- provide interval data more than once a month for a charge as described in Appendix 6.
- for meters controlled by Con Edison, provide meter-related services to the ESCO as the agent of the retail access participant.
- provide usage data to the NYISO.
- provide ESCOs acting as the customers' Billing Agent with copies of mandatory bill inserts, including the "Summary of Customer Rights Notice" and the "Annual Gas Safety Notice", emergency utility service telephone numbers for distribution to customers, and a single point of contact to enable ESCOs to respond to customer inquiries.

7.2.2. Additional Services

Con Edison will offer ESCOs other services. Services provided without charge are ~~two~~one-year billing history for each customer (within five days of request), encyclopedia of current ~~seasonal~~ load shapes, listing of the ESCO's customers electronically by the 5th calendar day of each calendar quarter as of the 1st calendar day of the quarter, current billing cycle data for each retail customer account where Con Edison controls the meter, and billing support data for Con Edison bills to ESCOs. Other services provided by Con Edison, for which Con Edison will impose a charge, include, but are not limited to, separating dual-service (electric-gas) accounts into 2 accounts; furnishing extraordinary data requested by ESCOs with respect to specific customers and any other services that may be prescribed by the PSC with respect to billing. (See Appendix 6 - Schedule of Charges) "Extraordinary data" is customer usage interval information provided more than once per month or other than on cycle where Con Edison controls the meter and any other available customer information not explicitly described above.

7.2.3. To the extent described in this procedure, communications between Con Edison and ESCOs shall be performed electronically. This shall include data file transmission and download and E-mail notices and communications.

7.3. Financial Security

- For Billing Agency arrangements, Con Edison has the right to require every ESCO acting as Billing Agent to provide financial security in the amount of the Company's credit exposure in a form acceptable to Con Edison.

Acceptance of a request for Billing Agency is contingent on the ESCO's providing financial security in the amount of the Company's credit exposure in any of the acceptable forms as explained herein. The Company will evaluate the ESCO's creditworthiness within 10 days of the ESCO's application. The Company will determine the amount of the financial security required and inform the ESCO promptly, providing the rationale for its determination and the calculations supporting the credit limit and resulting security requirement. The ESCO shall submit financial security within 5 days of notification by Con Edison. Financial security requirements will be reviewed no less often than annually.

7.3.1. Security Instruments

The ESCO must post security in an acceptable form as listed below.

- A. a deposit. Deposits received in cash as security for Billing Agency will accumulate interest at the applicable rate per annum approved by the New York State Public Service Commission for Other Customer Capital;
- B. a prepayment.

- C. a replenishable, standby irrevocable letter of credit issued by a bank, insurance company or other financial institution with at least an "A" bond rating;
- D. security interest in collateral found to be satisfactory to the Company;
- E. a guaranty, acceptable to the Company, by another party or entity with a satisfactory credit rating of at least "BBB" by S&P's, "Baa2" by Moody's or "BBB" by Fitch ("Minimum Rating");
- F. a surety bond from a bank, insurance company or other financial institution with at least an "A" bond rating; or,
- G. other mutually acceptable means of providing or establishing adequate security (e.g., escrow accounts, loss pooling, etc.).

If the rating of a bank or insurance company or other financial institution from whom an ESCO/Direct Customer has obtained a letter of credit or surety bond falls below an "A" rating, the ESCO/Direct Customer shall have 5 calendar days to obtain a substitute letter of credit or surety bond from an "A" rated bank or insurance company or other financial institution.

Where the ESCO's guarantor meets the creditworthiness standard of having a Minimum Rating from S&P's, Moody's or Fitch, the Company may require an ESCO to post security:

- for the amount by which the Company's Credit Exposure for the ESCO exceeds 5% of the Company's applicable revenues in any month.
- for the full amount of the Credit Exposure if (1) the ESCO's guarantor is at the Minimum Rating and is placed on credit watch with negative implications by any of the three designated rating agencies or the Company receives information that indicates that the ESCO's guarantor's credit rating could be downgraded below the Minimum Rating (which security requirement will be lifted if the ESCO's guarantor's credit rating is not downgraded during the ensuing 60 days), or (2) the ESCO's status as a Billing Agent is terminated by another New York utility for failing to render timely bills to customers or to make timely payments to the utility.

If a lockbox arrangement is provided by an ESCO acting as Billing Agent, the required security for Billing Agency will be reduced by 50%. Under the lockbox arrangement, an ESCO must direct its customers' payments to a lockbox, which will be administered by a mutually agreed upon entity. All costs associated with implementing and administering the lockbox will be the responsibility of the ESCO. The allocation of funds in the lockbox between the Company and the ESCO, and other administrative rules, must be agreed to by both parties, with the Company having first rights to funds in the lockbox to offset utility charges. The administrative rules may specify the terms under which the lockbox mechanism shall be terminated for non-compliance. The

Company, upon petition to the PSC, may terminate the lockbox and request full security if expected customer payments are not received in a timely manner.

7.3.2. Credit Exposure Determination for Billing Agency

Where the ESCO is acting as the customer's Billing Agent, the Company's credit exposure is equal to 45 days of the ESCO's customers' projected peak period energy requirements over the coming 12 months priced at the Company's applicable delivery tariff rate, including relevant competitive transition and customer charges. Additional security will be required for any ESCO that is acting as Billing Agent for customers with gas service.

7.3.3. Changes to Security Requirements

If the ESCO's guarantor's credit rating is reduced below the Minimum Rating or if the Company's credit exposure increases by 10% or \$500,000, whichever is less, then the Company may require additional security or prepayment. If the ESCO's guarantor's credit rating subsequently satisfies the Minimum Rating without the need for some or all of the additional security requirements, or if the Company's credit exposure decreases by 10% or \$500,000, whichever is less, the Company shall return, or apply to any invoice, the appropriate portion of the ESCO's security with accumulated interest, where applicable, within 5 calendar days of such determination.

7.3.4. Application of Security

Unless the ESCO remits customer payments (delivery charges and late payment charges) within 5 days of notice by the Company, the Company may apply to customer accounts the security posted in connection with Billing Agency.

If the Company applies any security amount, the ESCO must restore the security amounts to the original level within 5 days.

The Company may apply the security posted by an ESCO without prior notice if the ESCO files a petition in bankruptcy (or equivalent, including the filing of an involuntary petition in bankruptcy against the ESCO) or for any reason an ESCO ceases to provide service to its customers under this plan.

If an ESCO fails to transmit any customer payment, and if the retail access customer provides Con Edison with satisfactory proof of having made payment to the ESCO, Con Edison will apply a portion of the ESCO's security to the customer's account as described above. Except as provided in the preceding sentence, Con Edison will take regular credit action against any customer with respect to an account on which payment is not made to Con Edison, by the customer directly or through its Billing Agent, in accordance with the terms of its

Schedule for Electricity Service and Retail Access Rate Schedule.

7.4. Invoices

Invoices will be issued to ESCOs monthly for extraordinary customer data provided on request (over and above the information provided without charge), meter-related charges, adjustments to prior invoices, and other services provided on request.

7.4.1. Access to Detailed Billing Backup Information

Con Edison will maintain an electronic database that includes hourly and summary data by NYISO sub-zone. Data will be available for two years after posting.

7.4.2. Invoice Payments

A. Terms of Payment:

Bills are payable upon presentation of invoice and are subject to a late payment charge. The ESCO must pay the full amount stated in the invoice, without deduction, set-off or counterclaim, within 20 calendar days ("grace period") from the date of the invoice transmittal. On the first day following the grace period, late payment charges at the rate of 1.5% per month will be applicable to all overdue billed amounts, including arrears and unpaid late payment charges. Upon failure of the ESCO to make any payment when due, the Company may apply any security that may be available (as described in Section 7.3)

B. Application of Payments:

Payments will be applied to arrears first and then to current charges.

7.5. Billing Questions

7.5.1. All questions concerning balancing/reconciliation, invoices, arrears, payments, or financial security should be directed to:

Con Edison
Retail Choice [OperationsGroup](#)
4 Irving Place – 9th Floor
New York, New York 10017
Attention: Section Manager
Phone number: 212-460-2079

- 7.5.2. Claims that invoices are not correct must be made in writing and postmarked no later than 3 months after the disputed invoice was mailed or provided electronically.
- 7.5.3. Responses to billing inquiries will be acknowledged in writing or by electronic transmission no later than 5 days from the Company's receipt of the inquiry, and a response to the inquiry will be furnished, in writing, no later than 20 days from the Company's receipt of the inquiry.
- 7.5.4. Overpayments
 - A. Overpayments made by an ESCO as a result of an inaccurate invoice or as determined through the Dispute Resolution Process (Section 7.6) shall be credited to the ESCO's account if a prior shortage exists or be refunded otherwise. Such credit or refund will be provided within 5 calendar days of a determination that an overpayment occurred. Such overpayments shall earn interest at the rate of 1.5% per month from the date of the overpayment until the date of the credit or repayment, whichever applies. The refund shall be rendered to the ESCO by electronic funds transfer.
 - B. Overpayments made voluntarily by an ESCO shall be credited to the ESCO's account and shall not earn interest unless the overpayment is applied to the security deposit account.

7.6. Dispute Resolution Process

This process is to be used to address all retail access disputes/complaints between an ESCO and the Company with respect to the ~~Retail Choice~~Power Your Way program. Disputes involving retail customers, of either the ESCO or of the Company, are not addressed by this process. The ESCO shall designate specific personnel to be responsible for responding to complaints and disputes under this process. The Company has designated the Retail Choice Group (Section 7.5.1) to be its responsible party. The parties may also pursue other legal mechanisms to address complaints and disputes.

- 7.6.1. An ESCO or the Company may initiate the dispute resolution process by presenting a written description of the dispute/complaint, and a proposed resolution, to the other party(ies) involved in the dispute, sent in a manner that will verify its receipt.
- 7.6.2. The other party(ies) must, as soon as possible, but in no case more than 15 calendar days following receipt of the complaint, provide a written response to the complaining party(ies), with an alternative resolution proposal if the complaining party's(ies)' proposed resolution is deemed unacceptable or with the results of any informal resolution that may have been reached with the other party(ies) prior to that date.
- 7.6.3. If the initial exchange of written material does not resolve the dispute, the complaining party(ies) may request a meeting(s) to discuss the

matter further. The responding party(ies) must agree to such a meeting(s) to be held within 15 calendar days following the request.

- 7.6.4. The parties may agree to a different time frame or to use alternative dispute resolution techniques with mutually agreed-upon time frames that may differ from those defined in the dispute solution process.
- 7.6.5. If a resolution is not obtained within 45 calendar days after the initial complaint letter or the mutually agreed-upon time frame, either party may file the complaint with the DPS for resolution.
- 7.6.6. If an ESCO or the Company believes that special circumstances (such as an emergency involving public safety, system reliability or significant financial risk) exist that would require more expeditious resolution of a dispute or complaint than might be expected under the process described here, it may submit its complaint to the DPS, with a copy provided to the other party(ies) involved in the dispute. The DPS will respond to such a filing by expeditiously resolving the dispute, or advising that the standard dispute resolution process described above be followed.
- 7.6.7. If a dispute involves the accuracy of invoiced charges, the invoiced charges must be paid, subject to refund with the applied interest (1.5% per month). This interest is only payable when associated with a finding of deficiency on the part of the party holding the funds determined to be due the other party.
- 7.6.8. If any reasonable resolution between an ESCO, including the Company's affiliate, and the Company results in generic competitive benefits, those benefits should also be available to other ESCOs, including the affiliate of the Company, where applicable.
- 7.6.9. All correspondence or documents to be delivered from one party to another under this process must be sent in a manner that provides verification that it is received within the time periods specified by this dispute resolution process.

7.7. Complaint Procedure for Anti-Competitive Claims

Any ESCO or customer of Con Edison that believes that Con Edison has violated the standards of conduct established in the Agreement and Settlement, dated September 19, 1997, approved by the Commission in Case 96-E-0897, may file a complaint in writing with Con Edison. The Company will respond to the complaint within twenty (20) business days after receipt of the complaint. Within fifteen (15) business days after filing of such response, Con Edison and the complaining party will meet in an attempt to resolve the matter informally. If Con Edison and the complaining party are not able to resolve the matter informally, the matter will be referred promptly to the Commission for disposition.

8. RECONCILIATION AND BALANCING

8.1. Overview

- 8.1.1. Con Edison will be responsible for determining customer total hourly usage for each ESCO within its service territory .
- 8.1.2. Con Edison will aggregate hourly usage for each ESCO by NYISO load subzone. Con Edison will adjust the sum of all ESCO (referred to as Load Serving Entity (“LSE”) in NYISO procedural documents) hourly usage so that the sum of the hourly usage equals the NYISO supplied zonal loads. Con Edison will supply this hourly usage information to the NYISO, which will use this information to calculate and bill energy imbalances.
- 8.1.3. Hourly energy usage by customers whose usage is not measured by hourly meters will be derived from monthly energy usage and the use of load shapes.
- 8.1.4. Where Con Edison provides metering services, it will make available to ESCOs information (i.e., load shapes, historic customer usage, and current meter readings) to assist them in developing the hourly energy requirements of their customers.

8.2. Metering /Consumption Data

- 8.2.1. Determining Hourly Usage for Customers with Interval Meters where Con Edison supplies metering services
 - A. Con Edison will record consumption and demand data using its existing meter reading routes and schedules, which may be modified from time to time to make efficient use of resources.
 - B. Con Edison will extract hourly consumption data, during normal monthly reading schedules, from interval meters.
 - C. Customers (and ESCOs) requesting meter reading data on other than the cycle reading date will be accommodated to the extent practicable and at a charge.
- 8.2.2. Determining Hourly Customer Usage Without Interval Meters
 - A. Load shapes will be used to impute hourly consumption from monthly consumption data.
 - B. Using load shapes [as described in Appendix 9](#), Con Edison will calculate hourly consumption from the monthly meter reading data or estimates of consumption when actual readings have not been obtained. The load shapes used will be specific to that customer’s

service classification, and sub-class where applicable. Con Edison will treat these calculated hourly values as actual usage.

- C. Con Edison may periodically review the appropriateness of the load shapes and adjust them as deemed necessary. Any major change to the load shapes will be submitted for information to ESCOs and Staff at least 30 days prior to implementation.

8.2.3. Mixed Meter Account

A mixed meter account is a multi-metered account where one or more meters are not connected to the interval meter used for billing. Con Edison will calculate hourly consumption using load shapes. Except if the unconnected meter measures DC service and an account separation would result in the DC service being billed under an energy-only service classification, an ESCO may, with the customer's consent:

- A. Request that Con Edison separate the account into two electric service accounts. Con Edison will follow the procedure in section 8.2.1. for determining the hourly usage of the account with the interval meter, and the procedure in 8.2.2. for the other account.
- B. Request that the account be split into two separate Con Edison electric accounts. The dis-associated meter(s) must be upgraded to interval meters. Con Edison will follow the procedure in section 8.2.1. for determining the hourly usage of the accounts using the interval meters.

9. RELEVANT RATE SCHEDULES

9.1. NYISO Open Access Transmission Tariff ("OATT")

The NYISO's schedule filed with FERC under which it will provide transmission service in connection with retail access programs in New York State.

9.2. Open Access Transmission Tariff ("OATT")

The Company's service agreements entitled "ESCO Operating Agreement and Retail Transmission Service Agreement" and "Direct Customer Operating and Transmission Service Agreement" filed with FERC as supplements to its OATT.

9.3. PSC No. 2 - Retail Access ("Retail Access Rate Schedule")

The rate schedule filed with the PSC under which Con Edison will provide delivery and customer services to retail access customers. Customers will be classified for the purpose of this schedule in the same manner that they would be classified if they took service under the Schedule for Electricity Service, or any successor rate schedule, providing for service on a bundled basis. This Rate Schedule incorporates by reference the Schedule for Electricity Service, including the General Information Section, except as expressly modified by this schedule.

9.4. PSC No. 9 - Electricity, Schedule for Electricity Service ("Schedule for Electricity Service")

The Company's current electric rate schedule under which it provides bundled service to customers in its service territory.

9.5. Economic Development Delivery Service Schedule No. 2 ("EDDS")

The Company's delivery service schedule for deliveries of economic development power and energy from the New York Power Authority, County of Westchester Public Utility Service Agency, and New York City Public Utility Service.

10. PROGRAM MONITORING

Con Edison will monitor each phase of the ~~Retail Choice~~Power Your Way Program in order to be able to evaluate the experience of retail access customers, ESCOs, and bundled service customers in the evolving market environment. Key indices will include the numbers of customers enrolled and unenrolled, and the load (in megawatts, MW) associated with those customers. In addition, monitoring activities will include meeting with ESCOs to review their experiences and market research among customers. Specific reporting requirements include:

- Monthly ESCO usage report, to the PSC.
- Monthly slamming information, to the PSC.
- Hourly ESCO usage information, to the NYISO.

11. LIST OF APPENDICES TO THIS PLAN

Appendix 1	Glossary of Terms
Appendix 2	Description of Service Classifications Eligible for Retail Access
Appendix 3	Retail Access Service Request - Sample Information
Appendix 4	PSC ESCO Eligibility Requirements
Appendix 5	Direct Customer Operating Agreement
Appendix 6	Schedule of Charges
Appendix 7	ESCO Operating Agreement
Appendix 8	List of Data Available Via Internet Access
Appendix 9	Explanation of Load Shapes

GLOSSARY OF TERMS

AGGREGATION

The process by which a number of customers are grouped together by an ESCO or other aggregator for the purpose of participation in retail access.

AGGREGATOR

A non-utility entity that aggregates customers (including direct customers) for the purpose of obtaining electricity and/or natural gas supply for those customers but does not sell electricity or natural gas to those customers.

BILLING AGENCY

An arrangement between a customer and an ESCO in which the ESCO is authorized by a customer to: receive the customer's bills from the Company; consolidate those bills with the ESCO's charges; and rebill the entire amount to the customer in a single bill format, and, unless a lockbox arrangement is used, receive payments from the customer; and remit the appropriate payments to the Company. ESCOs offering Billing Agency services may perform those services itself or obtain a third party to perform the services, but in either case, the ESCO is considered to be the customer's Billing Agent. Customers may also individually establish arrangements with third parties to perform similar services on their behalf.

BUNDLED SERVICE

Service under Con Edison's PSC No. 9 - Electricity, Schedule for Electricity Service, which provides for the combined sale of generation capacity, energy, and delivery service and may also include Metering Services. The Schedule for Electricity Service is also referred to as the "Full Service Schedule."

COMPETITIVE OPPORTUNITIES PROCEEDING

The PSC proceeding Case 94-E-0952, to develop guidelines for the transition to a competitive electric industry, and Case 96-E-0897, the Con Edison rate and restructuring proceeding.

CRAMMING

The addition of unauthorized charges to a customer's bill.

CYCLE BILLING DATE

The scheduled reading date, as determined by Con Edison for each billing period.

DEFERRED PAYMENT AGREEMENT

An agreement between the Company and the customer for the payment of outstanding charges over time pursuant to PSC regulations.

DIRECT CUSTOMER

A ~~Retail Choice~~Power Your Way Customer that acts on its own behalf to obtain energy supply and capacity from one or more Suppliers. A Direct Customer purchases and schedules delivery of electricity for its own consumption and not for resale. Customers that are served under classes that permit redistribution are not precluded from being served as Direct Customers. The term “ESCO” includes a Direct Customer, which, for the purposes of this plan, has the same rights and obligations as an ESCO. Direct Customers do not have to file an application with the Department of Public Service to become eligible as an ESCO, but must comply with operating requirements established by the Company and the Independent System Operator (ISO). A Direct Customer may aggregate and schedule load for itself and other Direct Customers, each of which would continue to be responsible individually for meeting requirements placed on Direct Customers.

ENERGY SERVICE COMPANY (“ESCO”)

Any non-utility entity that performs energy and customer service functions in a competitive environment, including provision of energy and assistance in the efficiency of its use. The term ESCO is used herein to refer to entities that are deemed eligible by the Department of Public Service to provide electricity and associated customer service functions to end use customers in New York State.

HOME ENERGY FAIR PRACTICES ACT

Home Energy Fair Practices Act (“HEFPA”) is the title of part of the Public Service Law (sections 30 et seq.). HEFPA authorizes the Public Service Commission to adopt implementing regulations; these regulations are in 16 NYCRR Part 11 and are referred to as HEFPA regulations. The law and regulations cover initiation and termination of service, credit and collection policies, security deposits and related rules for transactions between utilities and their customers.

INVOLUNTARY SWITCH

A process or situation where a customer's energy provider is changed without the customer's authorization. A provider may be an ESCO or the Company. This would include situations where a customer returns to service under the Full Service Schedule as a result of an ESCO's failure to deliver.

LOAD PROFILE

Actual hourly usage as recorded on a meter designed for this purpose.

LOAD SHAPES

Statistically developed usage patterns by service class and subclasses to calculate hour-by-hour estimates of energy usage in the absence of hourly metering.

LOCKBOX

A collection mechanism agreed upon by a utility and an ESCO which employs a third party to receive and disburse customer payments.

LOSSES

Losses are associated with all transmission and distribution service systems. Losses are the difference between the generation amount of energy produced and the metered amount of customer usage within a specific service area.

MEGAWATT (MW)

A measure of electrical demand (capacity). 1,000 watts = 1 kilowatt (kW); 1,000 kW = 1 MW.

METER DATA SERVICE PROVIDER (MDSP)

Any entity, including Con Edison, having responsibility for the collection and processing of meter usage data. MDSP functions include, but are not limited to reading, translation, validation, estimation and provision of metered usage data.

METERING SERVICES

A combination of Meter and Meter Data Services provided by one or more competitive entities.

METER SERVICE PROVIDER (MSP)

Any entity, including Con Edison, that provides physical metering services, such as meter installation, removal and maintenance.

MINIMUM RATING

The minimum acceptable financial rating of an ESCO to avoid the necessity of providing financial security for reconciliation and imbalance services, "BBB" from S&P's, "Baa2" from Moody's, or "BBB" from Fitch.

MV90

Acronym for Multi-Vendor 90. A system which combines software and hardware to perform all functions required for call scheduling, communication, and data extraction from solid state electric metering equipment. MV-90 also provides data translation and database function for a large number of devices from a variety of manufacturers.

NEW DELIVERY CUSTOMER

A customer initiating delivery service.

NEW YORK INDEPENDENT SYSTEM OPERATOR (NYISO)

An independent entity established to govern the provision of transmission services and ancillary services on a non-discriminatory basis for all users of the system. The ISO will oversee and schedule all transmission activities.

NEW YORK ISO OPEN ACCESS TRANSMISSION (OAT) TARIFF

A rate schedule prescribed by the Federal Energy Regulatory Commission to govern the

provision of transmission service in a non-discriminatory manner and including supplemental Operating and Transmission Service Agreements to effectuate retail access.

ON-SITE METER READING

A service provided to obtain an actual reading at the customer's premises on the regularly scheduled meter reading date in the event that the customer's phone line used for remote communications is not operational.

PULSE INITIATOR

A device ancillary to an electric meter which generates pulses (contact closures) that are proportional to energy use. These devices are typically used by customers in connection with energy management systems.

RETAIL ACCESS INFORMATION SYSTEM (RAIS)

An electronic database system used by Con Edison to provide customer, enrollment and usage information for ESCOs participating in the ~~Retail Choice~~Power Your Way Program.

RETAIL ACCESS SERVICE REQUEST

A form that ESCOs will use to enroll customers. Electronic formats are available on the Internet. Once it is implemented, only the EDI enrollment format will be available. Once Electronic Data Interchange is operational at Con Edison, the Company intends to discontinue the use of RAIS to process business transactions.

RETAIL ACCESS

A process whereby customers may purchase capacity and energy from ESCOs or generators other than the local utility company and have it delivered using the utility company's transmission and distribution system.

SLAMMING

The unauthorized transfer of a customer from one energy provider to another or from bundled service to retail access. An involuntary switch that is not in accord with the "Discontinuance of Service" provision set forth in the Uniform Business Practices is referred to as "slamming."

SPECIAL METER READING

A service provided to obtain an actual meter reading on a date that is different than the regularly scheduled meter read date.

SPECIAL NEEDS CUSTOMER

A customer, as defined by the Home Energy Fair Practices Act (HEFPA), who requires electrically operated life-sustaining equipment, has a medical emergency, or is elderly, blind or disabled.

SUPPLIER

An entity selling capacity or energy to a Direct Customer.

TRANSMISSION

The process of transporting electricity on high voltage lines from the generator to the distribution system. Transmission can be over long distances and power can be transmitted over power lines owned by more than one entity.

TRANSMISSION SERVICE PROVIDER

An entity providing transmission service.

VOLUNTARY SWITCH

A process or situation where a customer's energy provider is changed from one provider to another with the customer's direct authorization.

DESCRIPTIONS OF SERVICE CLASSIFICATIONS ELIGIBLE FOR RETAIL ACCESS

- SC 1 Residential and Religious
- SC 2 General Small
- SC 3 Backup Service
- SC 4 Commercial and Industrial Redistribution
- SC 5 Electric Traction System
- SC 6 Public and Private Street Lighting
- SC 7 Residential and Religious Heating
- SC 8 Multiple Dwellings Redistribution
- SC 9 General Large
- SC 10 Supplementary Service
- SC 12 Multiple Dwelling Space Heating
- SC 13 Bulk Power High Tension Housing Developments

Appendix 3

SERVICE REQUEST SAMPLE INFORMATION

The following table identifies the type of information ESCOs will be required to provide in order to receive billing history information or enroll a customer. The table also identifies Con Edison's informational response.

Service Request	Information to be furnished by ESCO	Con Edison Response
Billing Information	ESCO account number ESCO name For each applicant, customer account number and name	For each customer account: Confirmation of customer account number Confirmation of customer name Customer specific Billing period dates For each billing period in the last 1224 months, Electric usage and demand (if applicable) and whether estimated or actual, and dollars billed. Request for customer authorization for release of information where the customer had previously requested non-disclosure.
Credit Information	ESCO account number ESCO name For each applicant, customer account number and name	Indication that the customer had been disconnected or had been billed for Late Payment Charges in the last 12 months. Request for customer authorization for release.
Customer Enrollment	ESCO name Customer account number Customer name	Confirmation of customer account number Confirmation of customer name Customer effective start date Customer's NYISO Zone.

PSC ESCO ELIGIBILITY REQUIREMENTS

To be eligible to act as a commodity supplier [referred to in this Operating Procedure as 'provider'], the ESCO must comply with the provisions of PSC Opinion No. 97-5 (Opinion and Order Establishing Regulatory Policies for the Provision of Retail Energy Services, dated May 19, 1997), specifically the following requirements set forth in Appendix B of that order:

Filing Requirements:

File an application with Consumer Services Division of the New York State Department of Public Service ("DPS") that contains the following information:

- 1) name and address of corporate headquarters, as well as any energy affiliates located or operating in New York State;
- 2) name, address, and contact person of any entity that holds an ownership interest of 10% or more in those affiliates listed above;
- 3) proof of registration with New York Department of State;
- 4) proof that the applicant has met all applicable requirements of the Independent System Operator and/or the Power Exchange;
- 5) a description of the customers the applicant intends to serve by type (i.e., residential, small commercial, large commercial, industrial), and geographic region of the State;
- 6) a description of how the applicant intends to comply with the required consumer protections;
- 7) if the applicant intends to render bills to customers, a sample copy of the applicant billing form sufficient to display the proposed format and content;
- 8) a description of the procedures the applicant intends to follow to protect customers from any unauthorized switch of provider;
- 9) a description of the applicant's procedures for handling and resolving customers complaints; and
- 10) a copy of the applicant's disclosure statement to be provided to customers prior to a contract offer.

Compliance Requirements:

- 1) Eligible ESCOs must comply with the following set of consumer protections which are described in more detail in Opinion No. 97-5 and modified by Opinion No. 99-3:
 - Provide prospective customers with a copy of their disclosure statement prior to the customer making a commitment to the provider;
 - Provide customers with a minimum of 15 calendar days notice prior to terminating the contractual relationship for electricity supply;
 - Adhere to practices sufficient to ensure a smooth transition, by a customer, from one provider to another;
 - Adhere to practices sufficient to protect customers from an unauthorized switch of provider (also known as "slamming"); and
 - Offer customers, and adhere to, a process for resolving their complaints that is both affordable and convenient for the customer.
- 2) Eligible ESCOs must comply with reporting requirements to be determined in subsequent Commission order(s).
- 3) Eligible ESCOs must notify DPS of any material change in the information submitted to DPS for eligibility determination.
- 4) Eligible ESCOs must adhere to the policies and procedures contained in their filed disclosure statements.

Suspension Criteria

The circumstances that may warrant the suspension of an ESCO's eligibility will be considered on a case-by-case basis. An ESCO found to be ineligible will be afforded an opportunity for a hearing. The criteria to be considered in determining whether an individual ESCO should be declared ineligible include:

- Failure to adhere to the policies and procedures described in the ESCO's disclosure statement;
- Failure to comply with prescribed consumer protections;
- An unacceptably high volume of customer complaints;
- Failure to comply with the requirements of the ISO or Power Exchange;
- Failure to comply with prescribed reporting requirements;
- Failure to comply with oversight requirements;
- Failure to apprise the PSC of all material changes in the information contained in an applicant's initial filing;
- Failure to comply with the voluntary discontinuance requirements as described in

Section 6.1; and

- Failure to comply with other applicable requirements of the PSC, including those in Opinion No. 97-5; Opinion and Order Establishing Regulatory Policies for the Provision of Retail Energy Services, issued May 19, 1997, in Case 94-E-0952; and, in the Order Clarifying Consumer Protections, issued October 25, 1996, in Cases 93-G-0932, et al.

DIRECT CUSTOMER OPERATING AGREEMENT

**DIRECT CUSTOMER
OPERATING AGREEMENT**

TABLE OF CONTENTS

Item

ARTICLE I

- 1.1 Incorporation by Reference.....
- 1.2 Term.....

ARTICLE II

- 2.1 Creditworthiness
- 2.2 Payments
- 2.3 Representations and Warranties.....
- 2.4 Aggregation of Load

ARTICLE III

- 3.1 Rates and Charges
- 3.2 Taxes.....
- 3.3 Con Edison Service
- 3.4 Metering, Billing, and Payment.....
- 3.5 Customer Accounts

ARTICLE IV

- 4.1 Complaint Procedure for Anti-Competitive Claims.....
- 4.2 Resolution of Disputes
- 4.3 Liability
- 4.4 Notices
- 4.5 Amendments.....
- 4.6 Prior Agreements Superseded.....
- 4.7 Waiver and Modification
- 4.8 Applicable Law and Forum
- 4.9 Severability.....
- 4.10 Agency.....
- 4.11 Not for Benefit of Non-Parties

APPENDIX NO. 1 CUSTOMER INFORMATION FORM

**DIRECT CUSTOMER
OPERATING AGREEMENT**

This agreement (“Agreement”), entered into by Consolidated Edison Company of New York, Inc., a New York corporation having an office for the transaction of business at 4 Irving Place, New York, New York 10003 ("Con Edison") and _____, a _____ corporation, having an office for the transaction of business at _____ ("Customer"),

WITNESSES

WHEREAS, Con Edison has established a retail access program (the “Retail Access Program”), as described in its Schedule for Retail Access, P.S.C. No. 2 – Retail Access ("Retail Access Schedule") and its Retail Access Implementation Plan and Operating Procedure (the “Operating Procedure”), both of which are on file with the New York State Public Service Commission ("PSCNY") together with Con Edison's Schedule for Electricity Service, PSC No. 9 – Electricity ("Full Service Schedule");

WHEREAS, Customer is an eligible Direct Customer under the Retail Access Program and will purchase electric energy and capacity on an unbundled basis on its own behalf from a supplier other than Con Edison;

WHEREAS, Customer meets the eligibility requirements under the **Retail Choice** Power Your Way Program; and

WHEREAS, Con Edison has agreed to render delivery service in accordance with the terms and conditions of this agreement and the Retail Access schedule;

NOW THEREFORE, in consideration of the premises and mutual promises contained herein, Con Edison and Customer agree as follows:

ARTICLE I

1.1 Incorporation By Reference

The rights and obligations of Con Edison and Customer under this Agreement shall be governed by the provisions of Con Edison’s Retail Access Schedule and the Operating

Procedure, as the same may be amended, modified, or superseded from time to time. In the event of any conflict, the terms of this Agreement shall govern with respect to services provided hereunder.

1.2 Term

This Agreement is effective as of _____, _____. It will remain in effect until terminated in accordance with its terms, the Operating Procedure, or an order of the PSCNY; provided that Con Edison may terminate delivery services under this Agreement in accordance with General Rule III (15) of the Full Service Schedule and re-establish it in accordance with General Rules III (19) and III (20) of the Full Service Schedule.

ARTICLE II

2.1 Creditworthiness

Customer shall comply with the requirements set forth in General Rule III (1) of Con Edison's Full Service Schedule for creditworthiness and security deposits in conjunction with delivery services.

2.2 Payments

Customer shall pay all charges assessed to it in accordance with the Retail Access Schedule and this Operating Agreement.

2.3 Representations and Warranties.

Customer represents and warrants that the information in Appendix No. 1 (Customer Information Form) is correct. Customer will promptly inform Con Edison of any changes in such information.

2.4 Aggregation of Load.

If Customer aggregates and schedules load for itself and other Direct Customers, each Direct Customer remains responsible for meeting all requirements placed on Direct Customers.

ARTICLE III

3.1 Rates and Charges

The charge for each account participating in the Retail Access Program will be the per unit rate for the service classification applicable to that account multiplied by the demand or amount of energy consumed by the account, as appropriate. Customer will arrange for service and pay charges under any applicable NYISO schedule that are necessary for delivery of its energy to Con Edison's system.

3.2 Taxes

Each party hereto will be liable to the appropriate tax authorities for sales, use, gross receipts or other similar or different taxes imposed upon the revenues derived or services rendered by such party.

3.3 Con Edison Service

Con Edison will provide usage information for Customer to the NYISO to enable the NYISO to reconcile energy and installed generating capacity.

Con Edison will provide the following services to Customer upon request, at the rates set forth in the Retail Access Schedule, or the Operating Procedure:

- Special Meter Readings (for meters controlled by Con Edison)
- Additional Customer Information
- Account Separation

3.4 Metering, Billing, and Payment

- A.** Retail delivery service will be metered at the point of service termination in accordance with General Rule III (8) of the Full Service Schedule and Sections 7.1 and 7.2 of the Operating Procedure. Con Edison will administer each Customer's account and render to each Customer a single combined bill for each account that includes charges and fees for services pursuant to Section 7 of the Operating Procedure.
- B.** The provisions of General Rule III (11) of the Full Service Schedule are applicable with respect to payment matters such as backbills, estimated bills, plural-meter billing, tampered equipment, inability to gain access, deferred payment agreements, late payment charges, and interest on overpayments.
- C.** Customer shall pay the full amount stated in any invoice from Con Edison to

Customer, without deduction, set-off or counterclaim, within twenty (20) days from the date of such invoice. Claims that any invoice is not correct will be made no more than three (3) months after the invoice date.

- D. Upon failure of Customer to make any payment when due under this Agreement, Con Edison will assess a late payment charge at the rate stated in the Full Service Schedule on all overdue billed amounts, including arrears and unpaid late payment charges.

3.5 Customer Accounts

Con Edison will provide Customer with Customer's billing determinants and such other information as is detailed in the Operating Procedure. Such information will be provided in accordance with the procedures set forth in the Operating Procedure.

ARTICLE IV

4.1 Complaint Procedure for Anti-Competitive Claims

Customer or any competitor of Con Edison that believes that Con Edison has violated the standards of conduct established in the Agreement and Settlement may file a complaint in writing with Con Edison. The Company will respond to the complaint within twenty (20) business days after receipt of the complaint. Within fifteen (15) business days after filing of such response, Con Edison and the complaining party will meet in an attempt to resolve the matter informally. If Con Edison and the complaining party are not able to resolve the matter informally, the matter will be referred promptly to the PSCNY for disposition.

4.2 Resolution of Disputes

Any dispute arising with respect to service under this Agreement (other than a dispute under Section 4.1), will be resolved pursuant to Section 7.6 of the Operating Procedure.

4.3 Liability

Con Edison will endeavor at all times to provide regular and uninterrupted transmission and distribution services, but in case such services shall be interrupted or

irregular or defective or fail from causes beyond its control or through ordinary negligence of employees, servants, or agents, Con Edison shall not be liable therefor. In accordance with operating policies established by the Company or the New York Independent System Operator, conditions on the electric transmission or distribution system could require remedial actions, including voltage reduction or load shedding, in the interests of preserving system safety and reliability. Such actions shall constitute a circumstance beyond the control of the Company for which the Company shall not be liable.

4.4 Notices

Any notice to be given by Customer or Con Edison to each other hereunder will be deemed given, and any other document to be delivered hereunder will be deemed delivered, if in writing and (i) delivered by hand, (ii) deposited for next-business day delivery (fee prepaid) with a reputable overnight delivery service such as Federal Express, or (iii) mailed by certified mail (return receipt requested) postage prepaid, addressed to the recipient at the address set forth below for that party (or at such other address as that party may from time to time designate by giving notice thereof):

To Con Edison: Consolidated Edison Company of New York, Inc.
Retail Choice Operations Group
4 Irving Place 9th Floor
New York, New York 10003
Attention: Section Manager
Phone No. 212-460 2079

To Customer: _____

Attention: _____
Phone No. _____

4.5 Amendments

Notwithstanding any provision of this Agreement, Con Edison may at any time propose and file with the PSCNY changes to the rates, terms, and conditions of Retail Access Schedule, and/or major changes to the Operating Procedure. Such amendment or

modification will become effective with respect to service pursuant to this Agreement on the date specified by the PSCNY.

4.6 Prior Agreements Superseded.

This Agreement constitutes the entire understanding between the parties hereto with respect to the subject matter hereof, supersedes any and all previous understandings between the parties with respect to the subject matter hereof, and binds and inures to the benefit of the parties, their successors and permitted assigns.

4.7 Waiver and Modification.

No modification or waiver of all or any part of this Agreement will be valid unless in writing and signed by the parties hereto. Any waiver will be effective only for the particular event for which it is issued and will not be deemed a waiver with respect to any subsequent performance, default or matter.

4.8 Applicable Law and Forum.

Interpretation and performance of this Agreement will be in accordance with, and will be controlled by, the laws of the State of New York except its conflict of laws provisions to the extent they would require the application of the laws of any other jurisdiction. Customer irrevocably consents that any legal action or proceeding arising under or relating to this Agreement will be brought in a court of the State of New York or a federal court of the United States of America located in the State of New York, County of New York. Customer irrevocably waives any objection that it may now or in the future have to the State of New York, County of New York as the proper and exclusive forum for any legal action or proceeding arising under or relating to this Agreement.

4.9 Severability.

If one or more provisions herein will be invalid, illegal or unenforceable in any respect it will be given effect to the extent permitted by applicable law, and such invalidity, illegality or unenforceability will not affect the validity of the other provisions of this Agreement.

4.10 Agency.

This Agreement is not intended, and will not be construed, to create any association,

joint venture, agency relationship or partnership between Con Edison and Customer or to impose any such obligation or liability upon Con Edison.

4.11 Not for the Benefit of Non-Parties

This Agreement is for the benefit of Customer and Con Edison, and is not for the benefit of third parties.

IN WITNESS WHEREOF, Con Edison and Customer have executed this Agreement.

CONSOLIDATED EDISON COMPANY
OF NEW YORK, INC.

By: _____

Name:

Title:

Date:

[Customer]

By: _____

Name:

Title:

Date:

APPENDIX NO. 1

CUSTOMER INFORMATION FORM

CUSTOMER INFORMATION

1. Name: _____
DBA Name: _____
Street Address: _____
Town/City: _____
State: _____ Zip Code + 4: _____ Room: _____

2. Mailing Address, if different from above:
DBA Name: _____
Street Address: _____
Town/City: _____
State: _____ Zip Code + 4: _____ Room: _____
Telephone Number: _____ Fax No.: _____

3. Customer Contact Personnel (Name and Telephone Number)

4. Internet Address _____@_____

5. Provide Names and Titles of Officers of All Partners on a separate sheet include mailing address and telephone number if different from above.

6. Attach a copy of the determination of eligibility issued by the New York State Department of Public Service.

7. Attach a copy of the executed NYISO service agreements.

8. Do you have an established ongoing business relationship with Con Edison, either as a seller, purchaser, or both? If so, provide details on a separate sheet.

9. What is the sales tax status of your business? Check one:
() Taxable () Non-taxable () Partially tax exempt

10. If you claim tax exemption, attach a copy of the appropriate exempt certificate to this form.

11. Tax Identification Number (Required): _____

12. Provide two bank references.

SCHEDULE OF CHARGES (Con Edison to ESCO)

Monthly Invoice Charges

- **Late Payment Charges**

As defined in the Schedule for Electricity Service or the Retail Access Rate Schedule and applied to arrears due Con Edison.

- **Interval Information**

For meters controlled by Con Edison, Con Edison will provide at no charge current customer hourly information to ESCOs through the Internet at the time of the current billing cycle for customers who have interval meters with operating telemetry capability. Access to interval information on a greater frequency may be obtained upon request, also through the Internet, under one of the following plans:

- Daily Access - \$241 per year
- Weekly Access - \$27 per year

The information on which interval information is based may be obtained by the installation of a pulse initiator; Con Edison will install a pulse initiator, upon request, for a one-time charge under the meter upgrade provisions of the tariff.

- **Additional Years of Customer Information**

The Company will charge \$15 per account per year of information or part thereof for preparing and forwarding customer billing and usage information or credit information for the second, third, fourth, fifth or sixth year preceding the request to the extent such additional history is available, ~~or credit information for the second, third, fourth, fifth or sixth year.~~

- **Special Meter Reading Charge**

For meters controlled by Con Edison, the Company will charge \$19 to obtain a meter reading requested by an ESCO at the customer's premises; two days' prior notice is required.

- **Dual-Service (Gas and Electric) Account Separation Charge**

The Company will charge ~~\$26.70~~\$34.50 to separate a dual-service electric and gas account into two accounts.

- **Billing and Payment Processing Charge**

The Company will charge \$0.65 for each bill rendered for the ESCO.

- ~~ESCO Switching Fee~~**

~~The company will charge \$10 to an ESCO transferring a customer to its service without verifiable customer authorization.~~

- ~~ESCO Unenrollment Fee~~**

~~The company will charge \$10 to any ESCO that without the customer's authorization unenrolls a customer within three months of the customer's enrollment date.~~

ESCO OPERATING AGREEMENT

**ESCO OPERATING AGREEMENT
TABLE OF CONTENTS**

Item

ARTICLE I

- 1.1 Incorporation By Reference
- 1.2 Term.....

ARTICLE II

- 2.1 ESCO Obligations.....
- 2.2 Representations and Warranties
- 2.3 Con Edison Service.....
- 2.4 Resolution of Disputes.....
- 2.5 Suspension
- 2.6 Retail Access Customer Records.....
- 2.7 Billing and Payment
- 2.8 Notices
- 2.9 Customer Accounts.....
- 2.10 Taxes.....

ARTICLE III

- 3.1 Commencement of Service
- 3.2 Creditworthiness
- ~~3.3 Customer Incentives~~
- 3.4.3 Metering, Billing, and Payment.....
- 3.5.4 Dispute Resolution.....

ARTICLE IV

- 4.1 Complaint Procedure for Anti-Competitive Claims
- 4.2 Liability
- 4.3 Amendments.....
- 4.4 Assignment
- 4.5 Prior Agreements Superseded
- 4.6 Waiver and Modification
- 4.7 Applicable Law and Forum
- 4.8 Severability.....
- 4.9 Agency
- 4.10 Not for the Benefit of Third Parties

Appendix No. 1 ESCO INFORMATION FORM

ESCO OPERATING AGREEMENT

This agreement ("Agreement"), entered into by Consolidated Edison Company of New York, Inc., a New York corporation having an office for the transaction of business at 4 Irving Place, New York, New York 10003 ("Con Edison");

_____, a _____ corporation, having an office for the transaction of business at _____ ("Energy Service Company" or "ESCO"); and the Retail Access Customers ("Customers") who purchase electric energy from ESCO pursuant to Con Edison's Retail Choice Power Your Way Program;

WITNESSES

WHEREAS, Con Edison has established a retail access program (the "Retail Choice Power Your Way Program"), as described in its Schedule for Retail Access, P.S.C. No. 2 – Retail Access ("Retail Access Schedule") and its Retail Access Implementation Plan and Operating Procedure (the "Operating Procedure"), both of which are on file with the New York State Public Service Commission ("PSCNY") together with Con Edison's Schedule for Electricity Service, PSC No. 9 - Electricity ("Full Service Schedule");

WHEREAS, ESCO is an eligible provider under the Retail Choice Power Your Way Program and desires to supply electric energy and capacity to Customers;

WHEREAS, Con Edison has agreed to render delivery service in conjunction with Customers' participation in the Retail Choice Power Your Way Program in accordance with the terms and conditions of this Agreement and the Retail Access Schedule; and

WHEREAS, each Customer has authorized ESCO, as Customer's agent, to execute this Agreement on Customer's behalf;

NOW THEREFORE, in consideration of the premises and mutual promises contained herein, Con Edison and ESCO agree to the provisions of Articles I, II, and IV of this Agreement, and Con Edison and Customers agree to the provisions of Articles I, III and IV of this Agreement.

ARTICLE I

1.1 Incorporation By Reference

The rights and obligations of Con Edison, ESCO, and Customers under this Agreement shall be governed by the provisions of Con Edison's Retail Access Schedule and the Operating Procedure, as the same may be amended, modified, or superseded from time to time. In the event of any conflict, the terms of this Agreement shall govern with respect to services provided hereunder.

1.2 Term.

As between Con Edison and ESCO, this Agreement is effective as of _____, and will remain in effect until terminated in accordance with its terms, the Operating Procedure, or an order of the PSCNY. This Agreement shall be effective between Con Edison and a Customer as of the date on which Customer commences the purchase of electric energy from ESCO and shall remain effective as to each Customer as long as Customer purchases energy from ESCO; provided that Con Edison may terminate delivery services under this Agreement as to particular Customers in accordance with General Rule III (15) of the Full Service Schedule and re-establish them in accordance with General Rules III (19) and III (20) of the Full Service Schedule.

ARTICLE II

2.1 ESCO Obligations.

- A. If the Company permits ESCOs to offer Billing Agency, ESCO may act as Customer's agent with respect to customer's account ("Billing Agent") pursuant to a separate Billing Agency Agreement with Con Edison. The agency will be effective as to any customer participating in the ~~Retail Choice~~Power Your Way Program upon notice to Con Edison and Con Edison's written confirmation to customer. ESCO shall obtain verifiable authorization from customer and make such authorization available to Con Edison upon reasonable request. Under any of the conditions and in accordance with the process described in Section 5.4.1.D of the Operating Procedure, Con Edison may terminate an ESCO's status as Billing Agent.

- B. If ESCO makes its contract for service to residential (SC 1-RA and 7-RA) and small non-residential (SC 2-RA) customers assignable, the contract shall also disclose that in the event that assignment is considered or arranged, ESCO or the Company may disclose customer information to other ESCOs.
- C. In the event any ESCO contract is assigned to ESCO pursuant to the procedure in Section 6.5.6 of the Operating Procedure, ESCO will honor the terms of the customer's existing contract with the assignor ESCO for the duration of the term of such contract.
- D. ESCO shall satisfy all other obligations detailed in Section 2.2 of the Operating Procedure.

2.2 Representations and Warranties.

ESCO makes the following representations and warranties to Con Edison:

- A. The information in Appendix No. 1 (ESCO Information Form) is correct, and ESCO will promptly inform Con Edison of any changes in such information.
- B. ESCO is in compliance with all of the requirements set forth in Appendix B of PSCNY Opinion 97-5, and will continue to be in compliance with such requirements and subsequently adopted regulatory requirements throughout the term of this Agreement.
- C. No material changes in the data contained in ESCO's initial eligibility application filing with the PSCNY have occurred or will occur, except such changes as have been or will be reported to the PSCNY.

~~D. ESCO shall be liable for the following charges at rates set forth in the Retail Access Schedule or Operating Procedure.~~

~~ESCO Switching Fee.~~

~~ESCO Unenrollment Fee.~~

E.D. Throughout the term of this Agreement, ESCO will continually adhere to its own policies and procedures as set forth in its disclosure statement filed with the PSCNY from time to time.

F.E. ESCO will not, either directly or indirectly, engage in, participate in or encourage or assist others to engage or participate in the practice of transferring customers without customer authorization, commonly referred to as “slamming.”

2.3 Con Edison Service.

- A.** Under the Retail Access Schedule, Customers served by ESCO designate ESCO as agent for scheduling transmission service on Con Edison’s system.
- B.** Con Edison will provide usage information for ESCO to the New York Independent System Operator (“NYISO”) to enable the NYISO to reconcile energy and installed generating capacity.
- C.** Con Edison will provide the following services to ESCO upon request, at the rates set forth in the Retail Access Schedule, or the Operating Procedure:
 - Special Meter Readings (for meters controlled by Con Edison)
 - Additional Customer Information
 - Account Separation
- D.** Con Edison will provide ESCO acting as the customers’ Billing Agent with copies of mandatory bill inserts, including the “Summary of Customer Rights Notice”, “Annual Gas Safety Notice”, bill messages and emergency utility service telephone numbers for distribution to customers

2.4 Resolution of Disputes.

If a dispute arises regarding service under Article II of this Agreement (other than with respect to a violation of the standards of conduct established by the Order Authorizing Merger, in Case 98-M-0961 (April 2, 1999)), the dispute should be resolved in accordance with Section 7.6 of the Operating Procedure. Current invoices remain due. Interest will be paid on refunds at the interest rate of 1.5% per month.

2.5 Suspension.

A. PSCNY Suspension of ESCO

If Con Edison is notified by the PSCNY that ESCO’s eligibility is temporarily suspended or permanently revoked, Con Edison will notify Customers in accordance with Section 6.3 of the Operating Procedure.

B. Con Edison Suspension of ESCO

Con Edison will suspend or discontinue service under this Agreement in accordance with Section 6.3 of the Operating Procedure.

2.6 Retail Access Customer Records.

ESCO will obtain and retain authorization from each Customer to be served and make the authorization available for audit by a third party for at least a six-year period commencing with the creation or receipt of such record or one year after termination of service, whichever is longer.

2.7 Billing and Payment.

- A.** Con Edison will bill ESCO and ESCO will pay all charges billed in accordance with the Retail Access Schedule, including charges for miscellaneous services.
- B.** ESCO shall pay the full amount stated in any invoice from Con Edison to ESCO, without deduction, set-off or counterclaim, within twenty (20) days ("grace period") from the transmittal date of such invoice. On the first day following the grace period, late payment charges at the rate of 1.5% per month will be applicable to all overdue billed amounts, including arrears and unpaid late payment charges. Upon failure of the ESCO to make any payment when due, the Company may apply any security that may be available (as described in Section 7.3.4). Claims that any invoice is not correct must be made no more than three (3) months after the invoice date.

2.8 Notices.

Any notice to be given by ESCO or Con Edison to each other hereunder will be deemed given, and any other document to be delivered hereunder will be deemed delivered, if in writing and (i) delivered by hand, (ii) deposited for next-business day delivery (fee prepaid) with a reputable overnight delivery service such as Federal Express, or (iii) mailed by certified mail (return receipt requested) postage prepaid, addressed to the recipient at the address set forth below for that party (or at such other address as that party may from time to time designate by giving notice thereof).

To Con Edison: Consolidated Edison Company of New York, Inc.
Retail Choice [Operations Group](#)
4 Irving Place, 9th Floor
New York, New York 1000317
Attention: Section Manager

Phone No. 212-460-2079

To ESCO: _____

Attention: _____
Phone No.: _____

2.9 Customer Accounts.

Con Edison will provide ESCO with the applicable billing determinants of ESCO's Customers and such other information as detailed in the Operating Procedure. Such information will be provided in accordance with the procedures set forth in the Operating Procedure and may not be used by ESCO for unrelated purposes.

2.10 Taxes.

Each party hereto will be liable to the appropriate tax authorities for sales, use, gross receipts or other similar or different taxes imposed upon the revenues derived or services rendered by such party.

ARTICLE III

3.1 Commencement of Service.

Each Customer must qualify as an eligible Retail Access Customer under the Retail Access Plan in order to receive service under this Agreement. Customers shall obtain service under this Agreement by contracting with ESCO for the purchase of energy and by causing ESCO to enroll Customer in the ~~Retail Choice~~ Power Your Way Program in accordance with Section 4 of the Operating Procedure.

3.2 Creditworthiness.

Customers shall not be obligated to provide a security deposit solely in connection with service under this Agreement, but shall comply with the requirements set forth in General Rule III (1) of Con Edison's Full Service Schedule for creditworthiness and security deposits in conjunction with delivery services.

~~**3.3 Incentives.**~~

~~Con Edison will provide incentives in accordance with the order of the PSCNY dated~~

~~February 28, 2000 and April 24, 2000 and pursuant to Section 4.8.2 of the Operating Procedure as modified consistent therewith. Con Edison shall have the right to audit the disposition of any monetary incentives provided directly to ESCOs.~~

3.34 Metering, Billing, and Payment.

Retail delivery service will be metered at the point of service termination in accordance with General Rule III (8) of the Full Service Schedule and Sections 7.1 and 7.2 of the Operating Procedure. Unless ESCO is acting as Customer's Billing Agent, Con Edison will render to each Customer a single combined bill that includes charges for distribution and transmission services, pursuant to Section 5 of the Operating Procedure. The provisions of General Rules III(11) and (15) of the Full Service Schedule are also applicable with respect to payment matters such as backbills, estimated bills, plural-meter billing, tampered equipment, inability to gain access, deferred payment agreements, late payment charges, and interest on overpayments.

3.45 Dispute Resolution.

Any dispute arising with respect to Article III of this Agreement will be resolved pursuant to the informal complaint procedures of the PSCNY at 16 NYCRR Part 12.

ARTICLE IV

4.1 Complaint Procedure for Anti-Competitive Claims.

ESCO or Customer or any competitor of Con Edison that believes that Con Edison has violated the standards of conduct established in the Agreement and Settlement may file a complaint in writing with Con Edison. The Company will respond to the complaint within twenty (20) business days after receipt of the complaint. Within fifteen (15) business days after filing of such response, Con Edison and the complaining party will meet in an attempt to resolve the matter informally. If Con Edison and the complaining party are not able to resolve the matter informally, the matter will be referred promptly to the PSCNY for disposition.

4.2 Liability.

Con Edison will endeavor at all times to provide regular and uninterrupted delivery

services, but in case such services shall be interrupted or irregular or defective or fail from causes beyond its control or through ordinary negligence of employees, servants, or agents, Con Edison shall not be liable therefor. In accordance with operating policies established by the Company or the New York Independent System Operator, conditions on the electric transmission or distribution system could require remedial actions, including voltage reduction or load shedding, in the interests of preserving system safety and reliability. Such actions shall constitute a circumstance beyond the control of the Company for which the Company shall not be liable.

4.3 Amendments.

Notwithstanding any provision of this Agreement, Con Edison may at any time propose and file with the PSCNY changes to the rates, terms, and conditions of its Retail Access Schedule and/or major changes to the Operating Procedure. Such amendment or modification will become effective with respect to service pursuant to this Agreement on the date specified by the PSCNY.

4.4 Assignment.

- A.** No Customer may assign its rights or obligations under this Agreement.
- B.** Except as provided in Section 6.5 of the Operating Procedure with respect to assignment of customer contracts, ESCO may assign, transfer, or otherwise dispose of this Agreement or any of its rights, duties or obligations hereunder to a party that is an ESCO eligible to provide service under the Retail Choice Power Your Way Program (hereafter referred to as the “assignee”) upon prior written notice to Con Edison of the assignment that includes the assignee’s acceptance of the rights, duties and obligations hereunder . Upon Con Edison’s receipt from the assignee of adequate financial security as required by the Billing Agency Agreement, Con Edison will release ESCO from the duties and obligations hereunder. For the purposes of this Agreement, an assignment, transfer or other disposition will include, but not be limited to, (i) any restructuring of the assets of ESCO, (ii) any acquisition, consolidation, merger or other form of combination of ESCO by, into, or with any person or entity, or (iii) any change in ownership interest of 25 percent or more.

- C. Any assignment, transfer or other disposition of this Agreement, or any rights, duties or obligations hereunder, by ESCO, except as specifically permitted herein, will be null and void.

4.5 Prior Agreements Superseded.

This Agreement constitutes the entire understanding between the parties hereto with respect to the subject matter hereof, supersedes any and all previous understandings between the parties with respect to the subject matter hereof, and binds and inures to the benefit of the parties, their successors and permitted assigns.

4.6 Waiver and Modification.

No modification or waiver of all or any part of this Agreement will be valid unless in writing and signed by the parties hereto or their agents. Any waiver will be effective only for the particular event for which it is issued and will not be deemed a waiver with respect to any subsequent performance, default or matter.

4.7 Applicable Law and Forum.

Interpretation and performance of this Agreement will be in accordance with, and will be controlled by, the laws of the State of New York except its conflict of laws provisions to the extent they would require the application of the laws of any other jurisdiction. ESCO and Customers irrevocably consent that any legal action or proceeding arising under or relating to this Agreement will be brought in a court of the State of New York or a federal court of the United States of America located in the State of New York, County of New York. ESCO and Customer irrevocably waive any objection that they may now or in the future have to the State of New York, County of New York as the proper and exclusive forum for any legal action or proceeding arising under or relating to this Agreement.

4.8 Severability.

If one or more provisions herein will be invalid, illegal or unenforceable in any respect it will be given effect to the extent permitted by applicable law, and such invalidity, illegality or unenforceability will not affect the validity of the other provisions of this Agreement.

4.9 Agency.

This Agreement is not intended, and will not be construed, to create any association, joint venture, agency relationship or partnership between Con Edison and the other parties or to impose any such obligation or liability upon Con Edison.

4.10 Not for the Benefit of Non-Parties.

This Agreement is for the benefit of the parties hereto and not for the benefit of non-parties.

IN WITNESS WHEREOF, Con Edison, ESCO, and the Customers have executed this Agreement.

CONSOLIDATED EDISON COMPANY
OF NEW YORK, INC.

By: _____

Name:

Title:

Date:

[ESCO]

By: _____

Name:

Title:

Date:

APPENDIX NO. 1

ESCO INFORMATION FORM

ESCO INFORMATION

- 1. Name: _____
DBA Name: _____
Street Address: _____
Town/City: _____
State: _____ Zip Code + 4: _____ Room: _____

- 2. Mailing Address, if different from above:
DBA Name: _____
Street Address: _____
Town/City: _____
State: _____ Zip Code + 4: _____ Room: _____
Telephone Number: _____ Fax No.: _____

- 3. ESCO Contact Personnel (Name and Telephone Number)

- 4. Internet Address _____@_____

- 5. Provide Names and Titles of Officers of All Partners on a separate sheet include mailing address and telephone number if different from above.

- 6. Attach a copy of the determination of eligibility issued by the New York State Department of Public Service.

- 7. Do you have an established ongoing business relationship with Con Edison, either as a seller, purchaser, or both? If so, provide details on a separate sheet.

- 8. What is the sales tax status of your business? Check one:
() Taxable () Non-taxable () Partially tax exempt

- 9. If you claim tax exemption, attach a copy of the appropriate exempt certificate to this form.

- 10. Tax Identification Number (Required): _____

- 11. Provide two (2) bank references.

- 12. Billing Agent Address, if different from above:

Name: _____
Street Address: _____
Town/City: _____
State: _____ Zip Code + 4: _____ Room: _____

[ESCO]

By: _____
Name:
Title:

Appendix 8

LISTING OF DATA AVAILABLE VIA INTERNET

Billing, enrollment, ~~balancing~~ and other processes that are an integral part of retail access require a dynamic system that provides information to all of the participants as quickly and efficiently as practicable. Using the Internet, Email and other electronic media to store and communicate information can accomplish this task. Listed below are the applications, services and information that will be available in an electronic format to ESCOs.

Application	Description
ESCO Enrollment, Billing and Metering	<p>The following transactions may be entered electronically by the ESCO, T&D company or customer:</p> <ol style="list-style-type: none"> 1. ESCO requests billing history, and/or credit information 2. ESCO advises T&D of new applicants 3. New ESCO advises T&D when customer is changing ESCOs 4. T&D advises ESCOs that a customer has enrolled with several ESCOs during the initial enrollment period 5. T&D notifies ESCO that customer has finalised its account 6. T&D advises ESCO about change in customer account number 7. T&D notifies ESCO that customer requests to be removed from Retail Access 8. T&D advises ESCO that customer's service has been discontinued 9. ESCO advises T&D that ESCO is removing customer from retail access <p>The following information is available electronically from the T&D company:</p> <ol style="list-style-type: none"> 1. Up to 21-year billing history 2. An indication that the customer's service had been disconnected or the customer had been billed late payment charges within the past 12 months. 3. Encyclopedia of current, seasonal load shapes 34. Customer usage profile information available more frequently than monthly as specified in Appendix 6 45. Listing of an ESCO's customers 56. Individual usage and demand data will be available each month on the date the customer's bill is prepared 67. ESCO aggregated usage information will be available for two years from the date the data is initially reported to the NYISO.). 78. Technical, safety and administrative specifications for meters which may be purchased and owned by

customers

89. Change in customer's service class, or account number.

940. Change in Agency status for a customer's account.

10. Capacity and Energy Reconciliation Guidelines

Public Information

Technical information relative to retail access and / or the T&D company's procedures will be available on the Internet as described below:

1. Retail Access Rate schedule
2. List of fees associated with retail access
3. List of ESCOs authorized to operate in Con Edison service territory
4. Operating Procedure

EXPLANATION OF LOAD SHAPES

This section describes the selection and use of load shapes in the Company's Retail Choice Program. Load shapes will be used to develop the hourly usage of customers taking service under the service classifications listed below who do not have metering equipment capable of storing hourly consumption data.

Definition of Terms

Day Type is an indicator of the calendar specific characteristics of a daily load shape. A representative load shape is chosen based upon the day of the week and holiday/non-holiday criteria. The Day Type codes currently in use are:

_____ WKD = weekday

_____ SAT = Saturday

_____ SUN = Sunday

HOL = holiday

_____ PRE = pre-holiday weekday

Load Shape is a series of 24 time ordered values representing the hourly demand of a customer, or group of customers. Load Shapes are developed from load research sample data as part of the Company's on-going Load Research Program. In the Retail Choice Program, load shapes represent the daily usage characteristics of a group of customers and are used as a proxy to calculate hourly usage for those retail access customers not equipped with metering to determine hourly usage.

Stratum represents a grouping variable used in the development of load research samples and is also a selection criteria by which load shapes are selected for retail access participants. It is essentially a measure of the size of a customer as defined by a particular billing quantity. The quantity used to define the size and hence the stratum varies by service class. The billing quantities currently used in the stratification of non-LTOD service classes open to retail access are:

<u>Service Class</u>	<u>Stratum (size) variable</u>
SC 1 - Residential (Excl. Religious & WH)	Annual kWhrs
SC 1WH - Residential & Religious Water Heating	Annual kWhrs
SC 2 - General Small	June-Sept kWhrs
SC 4 - Commercial & Industrial Redistribution	Avg. June-Sept billing kW
SC 5 - Electric Traction Systems	Annual kWhrs
SC 6 - Private Street Lighting	Month of Year
SC 7 - Residential Space Heating & WH	Annual kWhrs
SC 8 - Multiple Dwelling Redistribution	Avg June-Sept billing kW
SC 9 - General Large (Excl. Space Heating)	Avg June-Sept billing kW
SC 12 - Multiple Dwelling Space Heating	Nov-Feb kWhrs

Additionally, due to differences from their parent classes, the following sub-classes will have separate load shapes developed from their corresponding load research data:

<u>Service Sub-Class</u>	<u>Stratum (size) variable</u>
SC 1 - Religious (CSC 51)	Annual kWhrs
SC 9D - Space Heating (CSC 29)	Avg Nov-Feb billing kW

Once the stratification billing quantity for a given retail access participant is computed, a proxy load shape linked to a stratum range can be chosen.

Coincidence Factor is a conversion factor that allows an estimate of a class's or stratum's 1 hr demand at the time of system peak, as follows:

□ for load profiled (sampled) service classes - it is the ratio of service class or stratum 1 hr demand coincident at the system peak hour divided by the stratification variable for that class or stratum. Both the 1 hour coincident demand value and the stratification variable are based on the sample data available during the time period covered by the load study. So, for example, if 1997 data were used to develop the load tables, the 1 hr demand contribution would be based on the class's or stratum's 1 hour demand at the time of 1997 system peak, and the stratification variable would similarly be based on 1997 data. The 1 hour coincident value is adjusted (grossed up) by the system level loss factor of 7.9% to bring it to the generating station level.

□ for classes with hourly recording meters (TOD) - the ratio is computed the same way as for profiled classes, with the exception that actual historical metered data, and not sample profiles, are used to determine the 1 hr coincident demand value.

Temperature represents the value of a temperature reference associated with a load shape. Once the value is computed for a particular day, a load shape appropriate for the temperature within a given range can be selected. The temperature for the period May 1 through October 31 is based on a weighted three day average of daily 24 hr dry/wet bulb temperatures as measured in Central Park. For the period November 1 through April 30 it is based on a weighted three day average of daily 24 hr dry bulb temperatures as measured in Central Park. It is defined as:

$$\text{Temperature (today)} = .7(T3) + .2(T2) + .1(T1)$$

_____ where: T3 = today's average 24 hr dry/wet or dry bulb temperature

_____ T2 = prior day's average 24 hr dry/wet or dry bulb temperature

_____ T1 = two days' prior average 24 hr dry/wet or dry bulb temperature.

Load Shape Selection

Daily Load Shapes

The use of load shapes for retail access participants essentially amounts to the substitution of a representative generic load shape in place of a customer's actual load shape if recorded by hourly metering. The adequacy of a daily proxy load shape to portray the hourly usage pattern of a particular customer is dependent on a number of factors. These criteria are: service class of origin, customer stratum placement, day type, and temperature for the day under consideration. These four conditions are the significant determinants of the shape of an approximating load shape and hence of the customer's estimated hourly usage pattern for a given day.

Comparing each of the four profile characteristics for a customer against an established set of load shapes allows for a mapping of the customer into a particular daily load shape. The set of load shapes used for comparison was developed from an examination of the Company's load research database.

By combining the comparison procedure for each retail access participant, a daily proxy load shape for all the customers can be constructed. Aggregating the daily customer profiles for a given ESCO would result in a daily load shape for those customers purchasing energy through that provider.

Monthly Load Shapes

Customer load shapes covering time periods of more than a single day can be developed by replicating the process of daily load shape selection any number of times. Augmenting each daily load shape with an additional day increases the total time period covered by the resulting load shape. In particular, a load shape covering a customer's monthly billing period can be constructed by applying the daily selection criteria for each day in the billing period and concatenating the resulting daily load shapes. A single monthly profile for all customers served by a single ESCO can then be constructed by aggregating the individual customer monthly load shapes.

Load Shape Adjustment

The final step in fitting a monthly proxy profile to an individual customer's monthly usage pattern is in adjusting the proxy profile's monthly load shape to reflect the actual or estimated meter registration for the customer. This is accomplished by scaling the entire approximating load shape up or down by a ratio equal to the actual billed kWhrs divided by the monthly sum of the proxy profile's hourly demand values. Basically, this amounts to a proration of the actual billed energy across the monthly proxy usage pattern.

For example, once all the day types are determined for a particular customer for a particular billing cycle, then the total kWhrs associated with those load shapes are summed across all

~~hours in the billing cycle. This monthly kWhr sum is compared to the actual billed kWhrs for that customer. If the billed kWhrs were 1,000 and the sum of the load shapes yielded 900 kWhrs, then every hour in that billing cycle would be scaled up by a factor of 1,000/900 to yield a new load shape consumption of 1,000 kWhrs.~~