

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Case 12-E-0503 - Proceeding on Motion of the Commission to Review Generation
Retirement Contingency Plans

Comments of the
Natural Resources Defense Council and
Pace Energy and Climate Center

Regarding
Indian Point Contingency Plan

February 22, 2013

I. Introduction

The Natural Resources Defense Council, Inc. and Pace Energy and Climate Center (“Parties”) respectfully submit these comments, as provided for by the November 30, 2012 “Order Instituting Proceeding and Soliciting Indian Point Contingency Plan” (the “Order”).¹ The Order directed Con Edison and NYPA to develop a contingency plan for the potential closure of the Indian Point Energy Center (“IPEC”) upon expiration of its existing licenses by the end of 2015. The proposed contingency plan was filed with the PSC on February 1, 2013 (the “Proposal”).

The Parties applaud the PSC for requiring that the Proposal take into account the potential impacts of energy efficiency, distributed renewable generation, demand response, and combined heat and power projects.² Unfortunately, the Proposal only touches on these essential resources and lacks a robust, meaningful analysis or discussion of their full potential in the context of the broader replacement portfolio. The Proposal should ensure that the state takes full advantage of clean energy resources so as to reduce costs, mitigate risks, enhance reliability, and improve air quality—all while moving the state closer to meeting its ambitious energy efficiency and renewable energy goals.

This proceeding is a prime opportunity for New York to begin to fulfill one of Governor Cuomo’s core energy objectives—informed by the Moreland Commission findings—to better coordinate and leverage the state’s many clean energy programs in a manner that enhances the

¹ Riverkeeper, Inc. also endorses and supports these comments.

² “The Reliability Contingency Plan should take into account the status of proposed power plants and AC and DC transmission projects, **as well as the potential impacts of energy efficiency, distributed renewable generation, demand response, and combined heat and power projects.**” (emphasis added) New York State Public Service Commission (“PSC”) Case No. 12-E-0503, Proceeding on Motion of the Commission to Review Generation Retirement Contingency Plans, Order Instituting Proceeding and Soliciting Indian Point Contingency Plan (issued November 30, 2012) (“Order”), p. 5; <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={0FE5EA7E-68A6-42A0-85FB-A68C812FAC88}>.

stability and efficiency of the system. The Proposal mentions discussions with NYPA and NYSERDA, but lacks sufficient detail regarding those discussions, including how Con Edison arrived at the collective MW estimates for overlapping efficiency, combined heat and power (CHP), and other ongoing demand side programs. Nor does the Proposal fully explore the potential for substantial incremental, new collaborative demand side management (DSM) programs that could be launched by Con Edison in concert with state agencies and authorities. In addition, any PSC-approved contingency plan should include the opportunity for companies other than Con Edison, such as energy service companies and other developers, to propose on a competitive basis their own energy efficiency, clean distributed generation, demand response and other DSM projects. The following comments target some specific aspects of the Proposal that must be improved upon in order to ensure that the final version fulfills the core intent of the Order.

II. Estimate of the Capacity Deficiency Caused by IPEC Retirement

In the Order, the PSC requested that the Proposal procure resources to address system reliability needs by the summer of 2016, the first peak load period that would follow the closure of both nuclear units at IPEC if they are not relicensed by the NRC and/or do not receive the necessary state operating permits.³ The Proposal estimates a deficiency of 950 MW, assuming that the Dynegy Danskammer, L.L.C. Units 1 – 6 (“Danskammer”) does not retire, and 1,350 MW to 1,375 MW, assuming that Danskammer does retire.⁴ The Proposal notes that both of these estimates are for the reliability analysis for New York City, and that the Statewide Analysis

³ *Id.*

⁴ Based on recent PSC filings submitted by Dynegy on January 3, 2012, it is reasonable to assume Danskammer will in fact retire: <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={27F01CCA-271A-464F-9718-7365D4E51B4F}>.

results in a lower deficiency level.⁵ However, the Proposal does not include a detailed description regarding how Con Edison specifically developed the capacity deficiency estimates. In addition, though the estimate of capacity deficiency under the NYC Analysis is a useful point of information in the contingency planning process, the capacity deficiency under the Statewide Analysis is an essential piece of information required for a comprehensive reliability plan, and may even be more important for planning purposes.

The Parties recommend that the PSC require Con Edison to present a detailed description of the assumptions, methodologies and analysis used for its capacity deficiency estimates, both for the NYC Analysis and the Statewide Analysis. We also recommend that the PSC require Con Edison to present a detailed explanation of which analysis (NYC or Statewide) is most appropriate for contingency planning purposes and why.

III. Energy Efficiency and Demand Side Programs

Prior to addressing the merits of the Proposal, the Parties highlight that the potential closing of IPEC should be viewed by the PSC and other stakeholders as an opportunity to enhance all energy efficiency programs in the state. Increasing such efforts will benefit the state, regardless of IPEC – an obvious “no regrets” option. Whereas generation projects present certain timing challenges and development risks, well-designed energy efficiency, demand response, clean distributed generation and other targeted DSM projects can be implemented quickly and flexibly, and are highly cost-effective. In this way, these DSM projects have a significant advantage over many supply side projects; and thus these resources should be

⁵ PSC Case No. 12-E-0503, Proceeding on Motion of the Commission to Review Generation Retirement Contingency Plans, Compliance Filing of Consolidated Edison Company of New York, Inc. (“Con Edison”) and New York Power Authority (“NYPA”) with Respect to Development of Indian Point Contingency Plan (February 1, 2013) (“Proposal”), pp. 9-10.

maximized in any PSC-approved contingency plan. It is unclear in the Proposal filed by Con Edison whether this is in fact the case, and until additional details of the analysis and assumptions utilized by Con Edison are provided for parties to review, it will remain impossible to conclude whether the full technical/economic potential for DSM resources through the 2016 time horizon has been incorporated into the Proposal.

A. Energy Efficiency in the Proposal

The Proposal seeks to achieve additional peak demand reductions of 100 MW by June 2016, through an incremental energy efficiency and demand response (“EE/DR”) program. This incremental IPEC EE/DR Program would be in addition to the suite of existing Energy Efficiency Portfolio Standard (“EEPS”) programs and Con Edison’s ongoing Targeted DSM program, focusing on implementing measures that have the ability to achieve substantive savings within a short timeframe; increasing incentive levels to reduce customer payback periods to 12 months or less; and targeting large building lighting systems, HVAC, and control systems.⁶ Con Edison also acknowledges that it has been working to identify incremental energy efficiency, demand response, and CHP initiatives over and above what is already included in the 2012 Reliability Needs Assessment (RNA) that can be achieved prior to the summer of 2016. Such projects include the expansion of Con Edison’s Targeted DSM program.⁷ Con Edison estimates that the impact from these additional programs could be as much as 88 MW, on top of the 100

⁶ *Id.*, Exh. A.

⁷ See PSC Case No. 09-E-0115, Proceeding on Motion of the Commission to Consider Demand Response Initiatives, Targeted Demand Side Management Program Annual Report, No. 1 (December 14, 2012) (“Targeted DSM Annual Report”).

MW to be achieved through the IPEC EE/DR program, once the programs in progress are fully identified and accounted for.⁸

While we support Con Edison's commitment to targeted energy efficiency and DSM programs, the Proposal fails to provide the necessary clear and detailed analysis with respect to how Con Edison arrived at these 100 and 88 MW estimates. Even without this analysis, however, it is clear that the Company's Proposal fails to acknowledge the full potential for energy efficiency and DSM projects. A better approach would be to provide a sustained increase in funding for energy efficiency programs, with the intent of developing robust programs that ensure cost-effective energy and capacity savings over the long-term. Specifically, Con Edison's proposed program design is narrowly focused on savings in large buildings. While that sector is important to tackle as it presents opportunities for large demand reductions on a per project basis, any approved contingency plan should encompass a more diversified mix of customers and measures, including small businesses and residential customers, multi-family buildings, as well as new construction opportunities and building codes. Additionally, Con Edison could manage the IPEC closure similarly to how it addresses load-constrained areas through the Targeted DSM program.⁹ This program could be used as a model for improving efficiency in the area around IPEC through targeted projects.

In addition, we note that the Proposal contemplates expanding the energy efficiency efforts only of Con Edison and NYPA, whereas, other parts of the document allow for generation and transmission proposals that are interconnected to Zones G through K. The PSC should direct all energy efficiency program administrators within the electricity zones impacted by the IPEC

⁸ Proposal, Exh. G.

⁹ Through the targeted DSM program, Con Edison evaluates projects with the potential to provide load relief in particularly constrained areas, and implements projects that make sense from a timing and cost-benefit perspective.

closure, not just Con Edison and NYPA, to ramp-up energy efficiency efforts to account for IPEC's lost capacity savings.¹⁰

Based on a review of recent energy efficiency potential studies for New York and other states, as well as a review of the energy savings that are being planned for and achieved by other leading states, Synapse Energy Economics, Inc.'s report prepared for NRDC and Riverkeeper in October 2012, *Indian Point Replacement Analysis: A Clean Energy Roadmap* ("Synapse Report") (see Attachment A), found that a 1.5 percent annual demand reduction (relative to the prior year's sales) can reasonably be achieved in New York over the next decade, leading to approximately 21,000 GWh of cumulative savings by 2022.¹¹ The analysis in that report also indicated that more than 1,600 MW in cumulative savings above what the NYISO forecasts is reasonably achievable by that year – with 904 MW of that energy efficiency projected to be available in the New York City/Long Island region.¹² The Synapse Report also found that by 2016, approximately 200 MW of energy efficiency savings can be achieved in the region, and an additional approximately 100 MW in savings can be achieved in the rest of New York State.¹³ Given the significant opportunity that energy efficiency and other DSM resources present, the Parties urge the PSC to direct Con Edison and NYPA—in collaboration with NYSERDA—to more comprehensively evaluate, account for, and fully incorporate energy efficiency and other DSM savings into the final contingency plan.

To that end, it is also critical that energy efficiency program administrators, such as Con Edison, are provided with sufficient flexibility so that they are able to implement programs in a

¹⁰ This would apply to Central Hudson Gas & Electric, Orange & Rockland, and New York State Electric & Gas.

¹¹ Synapse Energy Economics, Inc., "Indian Point Replacement Analysis: A Clean Energy Roadmap", prepared for the Natural Resources Defense Council and Riverkeeper, October 11, 2012 ("Synapse Report"), p. 32.

¹² *Id.* at 37.

¹³ *Id.* at 10.

way that is most responsive to changing market conditions and customer needs. Con Edison states in the Proposal that the “100 MW of incremental peak demand reduction can be implemented prior to the In-Service Deadline provided that . . . Con Edison is granted more flexibility to implement incremental programs than what is currently offered through the existing [EEPS] . . . programs.”¹⁴ Though, as stated above, we believe that the 100 MW estimate is quite low and does not fully capture the existing cost-effective energy efficiency opportunity, we do support Con Edison’s request for greater flexibility to implement its energy efficiency programs. As we stated in our comments regarding the EEPS Program Review White Paper, submitted in August 2011, “[w]hile oversight and coordination are necessary, we believe that regulators should focus on the what and not on the how of efficiency goals.” Further, “[w]hile administrative oversight by DPS Staff is vital to ensure the wise use of ratepayer dollars, as this initiative matures the PAs’ hands must be untied and allowed to move forward at the pace necessary to achieve targets.”¹⁵

In addition, the Proposal contains a halting order mechanism that allows the PSC to stop the IPEC EE/DR Program at any moment up until December 31, 2014. We strongly recommend that such a halting mechanism not apply to energy efficiency programs. Interruption in program delivery can seriously hinder the development of energy efficiency by creating uncertainty for trade allies and utilities, as well as confusing customers. As mentioned above—unlike central generation and transmission projects—energy efficiency is flexible, modular, and scalable. It can also be quickly implemented, provided that the programs have a sound long-term planning and

¹⁴ Proposal, p. 10.

¹⁵ PSC Case No. 07-M-0548, Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard, Comments of Pace Energy and Climate Center, Northeast Energy Efficiency Partnerships, Natural Resources Defense Council & Supporters Regarding the Energy Efficiency Portfolio Standard Review White Paper (August 22, 2011), p. 6.

delivery structure. Energy efficiency savings will provide benefits to electricity customers regardless of the outcomes of IPEC proceedings, and should not be interrupted or otherwise stopped if the IPEC retirement does not occur.

Finally, regarding cost-recovery, Con Edison requests that the IPEC EE/DR Program be funded through a separate surcharge that would sunset at the end of the four-year period. The Parties support Con Edison's proposal in this regard, but recommend that the surcharge not sunset at the completion of the fourth year. Instead, we recommend at the beginning of Year 4 of the initiative, that the PSC initiate a proceeding to assess the performance of the program to date, direct Con Edison to conduct a potential study for additional cost-effective efficiency and DSM that could be procured, and extend the program for an additional four years (or other reasonable timeframe) unless it is demonstrated that the program is not effective.

B. Cost-effectiveness Test Proposal

As part of the Proposal, Con Edison requests that the Total Resource Cost (TRC) test currently employed in the EEPS program not be used to evaluate the cost-effectiveness of energy efficiency measures included in the IPEC EE/DR Program. Con Edison argues that the TRC test does not fully capture the environmental and societal value from permanently reducing the need for fossil generation capacity, and results in administrative burdens during program design. Instead, Con Edison proposes a flexible portfolio design that allows the company to evaluate programs and projects on a rolling basis, based on an efficiency cost curve that is less than or

equal to the total cost of building and running new generation, transmission, and distribution assets.¹⁶

We agree with Con Edison's characterization of the TRC test in New York. In previous filings before the PSC, including our Motion for Clarification and Petition for Rehearing submitted in the EEPS proceeding on November 23, 2011, we have noted the shortcomings of the TRC test as currently designed and applied here, and have urged a modification of the TRC to fully capture the benefits of energy efficiency.¹⁷ Numerous additional stakeholders, who filed comments in support of our petition, share this sentiment. Given the current deficiencies of the TRC in New York, we support Con Edison's proposal for a more flexible approach to cost-effectiveness. We recommend, however, that when evaluating energy efficiency cost-effectiveness, Con Edison account for the energy savings from efficiency programs, as well as the capacity savings. While capacity savings and corresponding peak demand reductions are the focus of the Proposal, energy savings are also an important piece of any contingency plan and a critical component of the value of energy efficiency programs.

Further, we recommend that the PSC consider basing the avoided costs of energy efficiency savings from the IPEC EE/DR Program on the cost of the generation and transmission

¹⁶ Proposal, Exh. A, p. 5.

¹⁷ "Consistent with the Commission's EEPS philosophy of 'continuous improvement,' the current approach to evaluating the cost-effectiveness of proposed efficiency programs could and should be improved—for the sole purpose of maximizing the ratepayer and public interest, which is served by encouraging sound consumer decisions on comprehensive energy efficiency improvements. The status quo has resulted in the following perverse scenario: as a direct result of PSC's effort to 'protect' ratepayers, all New Yorkers are being deprived of enormous benefits due to the onerous TRC protocols currently utilized by the Commission, therefore defeating the fundamental purpose that should guide any cost-effectiveness evaluation efforts." PSC Case No. 07-M-0548, Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard, Motion for Clarification and/or Petition for Rehearing of the Pace Energy and Climate Center and the Natural Resources Defense Council (November 23, 2011), p. 4.

projects received through the request for proposal (RFP) process included in the Proposal. The resources developed in the IPEC EE/DR Program will be able to reduce the amount of generation and transmission resources needed for the contingency plan. Therefore, these avoided generation and transmission costs should be used to estimate the economic benefits of the IPEC EE/DR programs. Doing so would capture the fundamental difference between a typical cost-effectiveness screening regime under normal conditions, and the unique nature of this proceeding. That is, demand side programs that were deemed cost prohibitive in other settings may now pencil out to being the least-cost option *when compared with the price tags of alternatives*.

C. Con Edison Shareholder Incentives

In the Proposal, Con Edison contends that the PSC should authorize a shareholder incentive “that is more effective than that provided for [EEPS] . . . programs and provides a financial incentive designed instead to provide long term benefits”.¹⁸ While the Parties strongly support performance-based utility shareholder incentives for energy efficiency programs administered by both electric and gas utilities, they do not support the incentive structure as specifically outlined by Con Edison in the Proposal. The Parties’ position regarding incentives is laid out below, and was also provided in the EEPS proceeding in response to the 2011 Department of Public Service proposal on the issue.¹⁹

¹⁸ Proposal, Exh. A., pp. 5-6.

¹⁹ PSC Case No. 07-M-0548, Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard, Comments of the Natural Resources Defense Council and Pace Energy and Climate Center Regarding the Proposal for Utility Shareholder Incentives (January 10, 2012); <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={C2858026-E4D4-4CB6-91CC-C679FCC89F1C}>.

The award of incentives should be based on actual verified performance, subject to independent verification, and not based on simply completing certain milestones, such as spending a certain amount of money. In addition, incentives should be scaled, with higher incentives for higher achievement, and the opportunity to earn greater incentives for exemplary performance beyond the base target, so as to maintain the utility's incentive to pursue cost-effective efficiency beyond the targeted level and ensure a consistent incentive to improve performance. These elements help to strongly encourage program success and provide utilities not only with an incentive to meet their goals, but also to pursue as much cost-effective efficiency as possible, even if it is clear that they will not reach their targets. It is also important that penalties be included for poor performance on utilities' savings goals and that there is a balance of potential risks *and* rewards. Incentives should also be awarded for cost-effective energy efficiency, and thus should be based on total resource net benefits (the benefits from avoiding costlier energy sources less the cost of the efficiency programs). Such a system will produce financial benefits for both ratepayers and utilities, which should be New York's goal. The more energy efficiency a utility achieves and the more rewards it receives for increasingly higher levels of performance, the more customers benefit in terms of lower energy bills. While the utility would get a financial benefit if it performs well, the vast majority of any benefit remains with the ratepayer.

D. Smart Grid and Advanced Metering Infrastructure

In 2010, the PSC initiated a proceeding to explore the costs and benefits of smart grid, and to establish a policy for New York State. The resulting PSC Policy Statement issued in August 2011 included the following language:

We believe the guidelines support important State energy policy goals and can advance New York's leadership in the 21st century clean energy economy. The promise of the smart grid is enormous and includes the potential for improved reliability, flexibility and power quality, reduction in peak demand, reduction in transmission congestion costs, environmental benefits gained by increased asset utilization, increased security, increased energy efficiency, and increased durability and ease of repair. Smart grid technologies further can aid in combating climate change by promoting utilization of renewable resources, as well as by helping to improve electric system reliability and efficiency.

The smart grid has also been envisioned as a means to spur technological innovation and serve as a catalyst for economic development. It represents a long-anticipated convergence of energy and telecommunications, both in technology and policy. It has the potential not only to change the way electric utilities interact with their customers, but to allow other market actors to play a much greater role in providing energy services.

We therefore encourage electric utilities to develop smart grid systems that integrate new intelligent technologies, while optimizing the use of existing facilities and resources and maintaining just and reasonable rates for electric customers. These guidelines are designed to balance a careful approach while smart grid technology is still developing, with creating the conditions that will allow optimal technology solutions to flourish. . .

With diverse needs, resources and legacy systems, the course and pace of smart grid deployment efforts will vary among utilities, and it is unlikely that a single solution will emerge as appropriate, cost-effective, and useful for all electric utilities and their customers. We further expect that building the smart grid is a process that will unfold over years and even decades. We therefore have not prescribed a particular end-state or deployment schedule for moving this effort forward. Rather, we have provided a policy framework to enable utilities to avail themselves of the opportunities available in this area, and to address the challenges that will emerge during the transition to a smart grid.²⁰

Despite this established policy, the Proposal includes no mention of how smart grid investments might contribute to, and optimize, an overall replacement portfolio, particularly one that maximizes clean energy resources. While these technologies do not directly provide capacity value, installed in the appropriate sites on the system they can better facilitate the increased penetration of dynamic and distributed clean resources. This in turn can reduce the

²⁰ PSC Case No. 10-E-0285, Proceeding on Motion of the Commission to Consider Regulatory Policies Regarding Smart Grid Systems and the Modernization of the Electric Grid, PSC Smart Grid Policy Statement (Issued August 19, 2011); <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={09E8B9B7-A5F6-4E1F-BEE6-F59B3E1D9BB4}>.

amount of central generation required to maintain reliability. Specifically, how were these potential complementary investments considered in the context of Con Edison's EE/DR proposal? Were smart grid components considered in the proposed transmission and distribution system projects? Did any of the relevant lessons learned from the various smart grid pilot projects Con Edison has conducted over the past three years inform the Proposal? Based on the filings, it does not appear that they did. While some of these technologies may currently be cost-prohibitive, at a minimum Con Edison should provide the assumptions and analyses that led to such a conclusion.

The extent to which the distribution system in New York State is becoming more (or less) amenable to the increased penetration of dynamic/comprehensive DSM projects, including clean distributed generation, is an important overarching issue for the PSC to consider as it approves ratepayer-funded investments by investor-owned utilities in any context. Are these investments in the transmission and distribution system forward looking in terms of supporting State goals for solar PV and other forms of clean distributed generation, such as CHP, as well as the functionality and attributes that we want for the grid of the future? For example, transmission and distribution system investments such as those proposed by Con Edison in this proceeding (and in their ongoing rate case) have very long service lives; some of today's investments have depreciation lives into the 2040s. Nearly a decade has passed since Con Edison was directed to address fault current issues that are problematic for the operation of clean distributed generation in much of Manhattan. How much progress have we made in a decade in making the network protection schemes and the operation of the distribution system more hospitable to the increased deployment of these resources? More must be done to better align the State's regulatory

constructs and its core energy and environmental policy objectives, and this proceeding presents a prime opportunity to do so.

We urge the PSC—consistent with its own established Smart Grid Policy Statement—to direct Con Edison to revisit its Proposal and identify components in which smart grid/advanced metering investments could result in a more modernized system that can better handle increased penetration of clean energy resources, such as energy efficiency, distributed renewables, CHP and other DSM investments that will benefit consumers over the long-term, avoid perpetuating an antiquated grid, and thereby ensure that the role of cost-effective DSM resources is maximized.

IV. Renewable Resources

Over the past decade, New York has begun to tap into its significant renewable energy resource base through the implementation of policies that support the development of wind, solar, and other renewable resources. These policies address grid integration, targets for the proportion of electricity generated by renewables, and incentives for investment in specific technologies such as solar PV.

To have transmission and/or generation solutions in place by the summer of 2016, the Proposal contemplates pursuing a two-pronged approach, in parallel. On the first prong of the solution, Con Edison and NYPA, working with and as part of the NY Transco,²¹ would begin developing the three Transmission Owner Transmission Solutions (“TOTS”). On the second

²¹ Con Edison and NYPA are active participants in the process of creating the NY Transco, a statewide transmission company that will seek to develop transmission in New York State.

prong, NYPA would begin a competitive procurement process by issuing a RFP to solicit third party generation and third party transmission solutions to the potential closure of IPEC.

Renewables are essential to the replacement of IPEC's capacity; indeed, a large portion of IPEC's capacity could be replaced with renewable generation, as indicated in the Synapse Report. Statewide, a significant amount of new utility-scale renewable energy is projected to come online over the next decade. According to the Synapse Report, 1,288 MW (143 MW UCAP) of renewable capacity is listed in the 2012 NYISO *Gold Book*.²² The Synapse Report also states that an additional 1,312 MW (215 MW UCAP) of renewable capacity is in varying stages of development in the Interconnection Queue²³ (excluding those listed in the 2012 *Gold Book*).²⁴ In addition, in response to Governor Cuomo's Energy Highway RFI, another 1,047 MW (335 MW UCAP) of renewable capacity (low end of the range) was recently proposed for future development, including proposals for at least 45 MW (UCAP) of solar PV.²⁵ Furthermore, the Governor's NY-Sun Initiative, as currently structured and adopted by the PSC, could spur the development of hundreds of megawatts of distributed solar PV capacity, much of which could be located in New York City. Given the Governor's commitment in his recent State of the State address to extend the NY-Sun Initiative for ten years, the potential for solar PV is clearly much more significant. Depending on a number of factors such as program design and rate of cost decline for the technology, we estimate the Governor's proposed budget of

²² Synapse Report, p. 44. The NYISO *Gold Book* contains forecasts of peak demand and a comprehensive queue of electricity resources that are currently being proposed.

²³ The Interconnection Queue is an extensive list of electricity resources that have been proposed by developers but are in various stages of development and study and are not accounted for yet by NYISO for planning purposes.

²⁴ Synapse Report, p. 44. Note that these numbers reflect projects included in the Interconnection Queue at the time of the release of the Synapse Report in October 2012.

²⁵ *Id.* at 44-45.

approximately \$150 million per year over ten years would drive the deployment of roughly 2,200 MW of solar over that timeframe.

Con Edison's Proposal does not acknowledge the opportunities currently available for developing new renewables to replace IPEC, and thus fails to comply with the Order, which requires that the contingency plan address the "[a]nalysis of the extent to which the reliability needs arising from the retirement of Indian Point Units 2 and 3 are mitigated by energy efficiency, *distributed renewable generation*, demand response, or combined heat and power initiatives."²⁶ (emphasis added) In fact, the only specific mention of renewable power in the Proposal is in the discussion of the campus-wide ASHRAE Level II audits to be performed pursuant to the Build Smart NY program. While we are thoroughly supportive of that program, and applaud the Governor on its innovation and goals, we are certain that it does not present the only opportunity for deploying renewables in the Con Edison service territory.

As the Proposal does not include any information regarding renewables, it is unclear as to what Con Edison's assumptions are with respect to the potential penetration rate for solar PV or any other form of distributed renewable generation in its service territory, what the associated peak demand reduction would be, and how deployment of renewables could be increased with targeted investment. For example, what were Con Edison's assumptions regarding how much PV will be online by summer 2016 as a result of the NY-Sun Initiative? Likewise, what areas were considered for potential incremental/additional investment in PV? For example, NYSERDA already includes a metric/adder for PV projects that are proposed in "strategic locations"—areas on the system where utilities have determined PV would be particularly valuable. As part of a supplemental program, that metric could be tailored to incent projects that

²⁶ Order, pp. 6-7.

provide strategic value on a system without IPEC. Finally, like efficiency, PV is modular and can be deployed quickly on the system, and because its output is generally coincident with peak, it represents an ideal resource component of any replacement portfolio. However, based on the filing, PV was not adequately considered, and we urge PSC to direct Con Edison to amend the Proposal accordingly.

The Proposal also lacks any discussion of the potential for offshore wind resources to replace IPEC's capacity, which would be located close to load. While it would be challenging to bring a project on line by 2016, incremental offshore projects could move forward in the short-term under the right investment conditions. In addition, Con Edison is a member of the Offshore Wind Collaborative, together with LIPA and NYPA, which was formed in 2009 to advance the Long Island–New York City Offshore Wind Project. That project, proposed off the coast of the Rockaway Peninsula in Queens, would have a nameplate capacity of 350 MW. The final contingency plan should reflect the opportunity that offshore wind presents and take into account the potential impacts of this renewable resource.

Con Edison's proposed competitive solicitation process does not explicitly provide for new renewable generation sources to compete against other generation options, due to the capacity threshold limit of 75 MW (UCAP).²⁷ This threshold level of capacity essentially precludes most renewable resources from bidding on the RFP and thus represents a significant limitation. The PSC should require Con Edison to more directly incorporate renewable generation into the final contingency plan. This goal could be achieved by issuing a RFP

²⁷ Con Edison recognizes that a single project is unlikely to meet the entire deficiency need. To accommodate several proposals, the Proposal allows for proposed solutions to be grouped into portfolios of projects. Renewable projects could conceivably submit a proposal using a combined project approach, but this significantly limits the ability of individual project developers to bid or to compete against each other.

competitive bidding process that allows for projects under 75 MW (UCAP) that focuses directly on renewables and clean distributed generation, including solar PV, wind and CHP. This additional RFP could run parallel and be identically structured to the generation and transmission RFP. Failing to do so would result in a contingency plan that does not fully comply with the PSC Order.

Finally, we appreciate Con Edison's emphasis on generation projects located in zones G through K in the Proposal, as these zones would be most directly affected by the retirement of IPEC. We note, however, that as new transmission projects are completed in New York, as part of both the Energy Highway and contingency plan efforts, these projects will open up opportunities for renewable resources located in other parts of the state to assist in replacing the capacity and energy of IPEC. This is particularly relevant considering the ongoing process at the NYISO to establish a new "super capacity zone" that will span zones G-K, which is scheduled to be filed at FERC and adopted in the 2015 timeframe. Under this new structure, some form of locational capacity requirements for Zones J and K will be retained, but capacity anywhere across those five load zones could contribute to meeting reliability requirements in the region.²⁸ Therefore, the Order, itself, is unnecessarily limited in that it explicitly calls for the contingency plan to take into account the proposed impacts of distributed renewable generation, but does not specifically include large-scale renewable projects.

²⁸ http://www.nyiso.com/public/webdocs/markets_operations/committees/bic_icapwg/meeting_materials/2013-01-30/NCZ%20Preliminary%20Boundary_Jan%2030%202013.pdf.

V. Combined Heat and Power

As with renewables, the Proposal fails to adequately consider and incorporate new CHP initiatives that could contribute to a replacement portfolio, despite the Order's requirement that the Proposal address the extent to which the reliability needs arising from the retirement of IPEC are mitigated by CHP projects. Though Con Edison identifies 15 MW of CHP that will result from its work with NYPA and 50 MW of CHP from NYSERDA initiatives, as well as additional opportunities to be identified through the Build Smart NY program, the Proposal does not include any new CHP resources beyond those that are already in the pipeline.²⁹

CHP is an important tool for achieving the capacity savings needed if the IPEC licenses are not renewed and provides numerous additional benefits, including increased resiliency, grid reliability, energy efficiency, reduced peak demand, and improved air quality. The final contingency plan should more directly account for savings expected to be provided from new CHP projects, particularly in light of the February 14th announcement by Governor Cuomo of \$20 million to support CHP,³⁰ as well as New York City's own efforts to expand CHP, having established a CHP deployment goal of 800 MW in the city, alone. Governor Cuomo's CHP initiative particularly focuses CHP deployment resources across New York City and the lower Hudson Valley region. As a result of recent and intense demand for increased resiliency, power reliability, and energy efficiency, New York City and the State are organizing resources towards the explicit goal of increased CHP deployment within New York City and the surrounding areas. Individual CHP projects, while ideal within the dense, mixed-use New York City environment, will not have generation capacities larger than 75 MW. A comprehensive study of CHP potential

²⁹ Proposal, Exh. G.

³⁰ See <http://www.governor.ny.gov/press/02142013-20million-for-combined-heat-and-power>.

in New York State identified nearly 3,200 MW of total technical CHP potential in Con Edison's service territory, with the majority of applications smaller than 5 MW in size.³¹

As mentioned above, to more appropriately allow for CHP participation, the Parties recommend that Con Edison issue a separate RFP that explicitly addresses renewables and clean distributed generation projects not subject to the minimum 75 MW UCAP size. The PSC should require Con Edison to allow CHP projects to bid as part of this additional proposal. Similar to the aforementioned "strategic location" metric for PV, as part of that process, Con Edison should identify strategic locations where targeted CHP would be most valuable to a system without IPEC online. Con Edison includes a brief reference to some form of this approach in its December 2012 Targeted DSM Report to the PSC: "The Program has also supported the Company's work with NYSERDA to offer bonus incentives in their upcoming CHP Acceleration and CHP Performance programs in targeted networks (based on the latest Load Relief Program), which increases the likelihood of electric load relief benefits to all customers."³² The final contingency plan should build on this concept, and ensure it is expanded and actually implemented in areas both within Manhattan and across the service territory so as to capture sites across the relevant areas impacted by a potential IPEC retirement. In addition, Con Edison should consider the potential for aggregated CHP systems under a microgrid/district energy model to play a part in a replacement portfolio.

³¹ Energy Nexus Group, Onsite Energy Corporation, and Pace Energy Project, *CHP Market Potential for New York State (Final Report 02-12)*. Prepared for New York State Energy Research and Development Authority (NYSERDA). October 2002.

³² Targeted DSM Annual Report, p. 16.

VI. Demand Response

The Contingency Plan rolls both energy efficiency and demand response initiatives into the IPEC EE/DR Program. The demand response portion of the program consists of working with NYSERDA to incentivize retail sales of energy-efficient, customer-run appliances and equipment that are run during times coincident to the transmission peak, such as window AC units.³³

As discussed above for energy efficiency, the State should take full advantage of this opportunity to advance demand response programs. Demand response is an important resource that could improve capacity requirements both directly surrounding IPEC and throughout New York State. Con Edison describes its current demand response initiatives and notes that the capacity from these initiatives will be incorporated into the evaluation process that determines the final set of transmission and generation solutions,³⁴ however, it does not offer any details regarding *additional* demand response initiatives beyond what is currently on-going.³⁵

The Parties recommend that the PSC promote the implementation of additional demand response activities similar to energy efficiency. This would include: considering demand response programs that serve all customer types, not just large buildings; applying some flexibility in evaluating the cost-effectiveness of demand response programs; valuing the demand response programs at the avoided costs associated with the generation and transmission projects in the final contingency plan; recognizing the flexibility and modularity advantages of demand response programs; not placing a “halting” requirement on these programs in the event that IPEC

³³ Proposal, Exh. A, p. 7.

³⁴ *Id.*, Exh. G, p. 38.

³⁵ Table A.2 on pages 7-8 of Exhibit A includes a 20 MW category to be met with “Other permanent Efficiency and Demand Response measures”, but there is no discussion of what that would entail or how the number was derived.

is not retired; and, not placing an explicit sunset provision on additional charges used to pay for the demand response programs, but rather evaluating and continuing them as long as they are performing well and providing cost-effective value to the system. Furthermore, Con Edison could improve the proposed demand response program by modeling it on its Targeted DSM program.

VII. Conclusion

This proceeding presents an opportunity for the state to set an example for the nation on how to responsibly confront the potential retirement of baseload generation in a manner that maintains reliability through an innovative portfolio of diverse resources—including a robust suite of investments in targeted energy efficiency, renewables, clean distributed generation, such as CHP, and demand response. Unfortunately, Con Edison’s Proposal relies primarily on the 20th century model of large central generation and upgrades to transmission infrastructure. While these conventional resources will likely be a component of the final contingency plan, they should only be considered after all cost-effective energy efficiency, distributed and other renewable generation, CHP and demand response is achieved. The PSC should require Con Edison to shift its emphasis to these clean and cost-effective resources in the final contingency plan.

In its December 2012 Targeted DSM Report to the PSC, Con Edison states the following in its conclusion:

With the EEPS programs ramped up and achieving toward 2012-2015 cycle goals, the Targeted Program will review the potential and feasibility of targeting the programs for long-term load

*relief needs. It is an objective for the Company to better integrate the complete set of demand side customer offerings (energy efficiency, demand response and targeted demand side management), across the range of commodities. The Company has already commenced steps to better align these offerings and will pursue continuous improvement in this regard.*³⁶

We couldn't agree more. But the Proposal submitted by Con Edison fails to fulfill this philosophy in practice. Thus, we urge the PSC to direct Con Edison to revisit the Proposal, and provide the analyses and justification for why the size of its proposed EE/DR is limited to 100 MW, identify and include opportunities for solar and CHP, as well as other renewables and clean distributed generation, and to also provide additional detail on how the utility plans to leverage NYSERDA and NYPA programs in order to deliver more comprehensive DSM projects.

We appreciate the opportunity to comment in this proceeding, and look forward to working with the PSC, Con Edison, and other stakeholders to ensure the final contingency plan maximizes the role for demand side resources—to the benefit of consumers and the environment.

Respectfully submitted,

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³⁶ Targeted DSM Annual Report, p. 16.

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Riverkeeper, Inc. also supports and joins in the filing of these comments.

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