Stuart Nachmias
Vice President
Energy Policy & Regulatory Affairs
212-460-2580
nachmiass@coned.com

VIA E-MAIL to rggiprograms@nyserda.org

RGGI Programs
Attn: Dave Coup
New York State Energy Research and Development Authority
17 Columbia Circle
Albany, NY 12203-6399

Re: Comments on NYSERDA's Summary of Recommendations for a Revised Operating Plan for Investments in New York under the CO2 Budget Trading Program and the CO2 Allowance Auction Program

Dear Mr. Coup:

Consolidated Edison Company of New York, Inc. ("Con Edison") and Orange and Rockland Utilities, Inc. ("O&R") (collectively the "Companies") respectfully submit these comments on NYSERDA's December 29, 2009 Revised RGGI Operating Plan, Summary of Recommendations (the "Revised Plan"). The Revised Plan summarizes the results of a review of the original Operating Plan, adopted April 16, 2009, and outlines changes proposed for the eventual adoption of a Revised Operating Plan.

The Companies request that, in finalizing the Revised Plan, NYSERDA should (1) incorporate a comprehensive review of all of the State's clean energy programs to use the RGGI funds to reduce carbon cost-effectively while at the same time contributing to the State's other energy, environmental and economic development goals, (2) include geographic equity as a primary criterion in expenditure of the RGGI proceeds and other electric customer-funded sources, (3) consider electric utilities as active partners in the delivery of clean energy programs, and (4) specifically identify and prioritize programs consistent with geographic and ratepayer equity.

INTRODUCTION

The Revised Plan modified the projection of auction proceeds over the planning period, and takes into account the diversion of $90 million from RGGI funds to the State's General Fund for deficit reduction purposes in FY 2009-2010 and the use of approximately $7.7 million in RGGI monies to conclude litigation.[1] In light of these changed circumstances, and other factors such as the Green Jobs/Green New York Act (which specifies spending of $112 million of RGGI proceeds), the Revised Plan sets forth the programmatic and budgetary expectations for the period through March 31, 2012.

The Companies have supported the RGGI initiative since its early inception. They continue to support the overall goals of RGGI and the development of an environmentally sustainable economy.

In particular, the Companies continue to support the State's development of a single, comprehensive approach to achieve the goal of a sustainable energy system drawing upon all available funding sources. Notwithstanding the recent adoption of the State Energy Plan and the ongoing coordinative efforts of the agencies and authorities charged with energy policy and program design, the Companies believe that the State has not yet rationalized the myriad of clean energy programs and funding sources. The Companies urge that this revision of the RGGI Operating Plan balance and optimize the State's portfolio of clean energy programs for cost-effectiveness, fairness and job creation throughout New York State.

[1] *Indeck Corinth, L.P. v. Paterson, et* al., Supreme Court of New York, County of Albany, Index No. 5280-09, Proposed Consent Order.

It is essential that certain criteria be used in the process. Geographic equity should be a priority criterion. While geography may be irrelevant for some program outcomes, such as statewide overall costs or carbon reductions, geography is critical to customer-specific benefits such as job growth and local environmental impacts. As longer-term funding decisions are made for the Systems Benefits Charge and Renewable Portfolio Standard,[2] the RGGI program can balance expenditures in these programs to achieve overall effective and beneficial programs for customers in a manner that considers all benefits and spends funds being paid by customers throughout the State.

NYSERDA can increase the effectiveness of the RGGI funds by recognizing the beneficial role that the electric utilities can play. The Companies and other utilities have specialized insight into the energy usage of their customer base and can target programs to achieve maximum benefit as well as to maximize customer outreach and education activities. Similarly, the Companies and other utilities have an unmatched understanding of their electric systems and the ability to draw upon that knowledge to maximize effectiveness of clean energy program deployment.

If auction proceeds exceed the estimates in the Revised Plan, achievement of the State’s overall goals would be enhanced if this Plan addressed that eventuality by, for example, including additional initiatives. Such planning would permit market participants to plan to avoid implementation delays. Any initiatives should be chosen consistent with the factors driving the additional carbon allowance revenues.

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[2] *E.g.*, Case 03-E-0188, Proceeding on Renewable Portfolio Standard, Proposed Rulemaking, Published in the New York State Register, on October 7, 2009.

DISCUSSION

1. As the Companies stated previously, the State has an historic opportunity to underwrite initiatives that could change the energy landscape in New York for decades to come. To achieve the environmental and economic goals set forth by the State's policymakers, the State must devise a single, comprehensive plan utilizing criteria that will allow deployment of all available funding to maximize benefits for those paying into the programs, to minimize costs, and to stimulate private sector investment and innovation. While the Companies recognize that the development of such a plan is a task of great complexity, the effort is nonetheless critical for reaching all of the State's energy-related goals, including job creation, fostering a clean energy economy, and achieving affordable energy pricing.

Indeed, the factors that make the analysis so difficult are the same factors that give it such importance. The State is in the process of funding large, historic investments in the energy sector over the next few years, with an estimated $300 million remaining in RGGI, $530 million authorized for collection to fund the RPS program from 2010 through 2013, $668 million authorized for collection to fund the SBC program from 2010 through 2013 (including the State's Energy Efficiency Portfolio Standard), $171 million from the American Recovery and Reinvestment Act,[3] millions more in targeted investments in clean energy through the New York Power Authority and the Empire State Development Corporation, as well as implementation of local programs such as PlaNYC.[4] In addition, the New York State Public Service Commission (the "Commission" or "PSC") is considering additional funding needed to achieve the State's new, higher 30 percent renewable energy goal which, if approved as

[3] NYSERDA is administering approximately $171 million from the following United States Department of Energy programs: the State Energy Program ($123 million), the Energy Efficiency and Conservation Block Grant program ($29 million) and the State Energy Efficient Appliance Rebate Program ($19 million).
[4] http://www.nyc.gov/html/planyc2030/html/home/home.shtml

contemplated,[5] would result in collection of an additional $2.3 billion from the customers of the State's investor owned electric utilities over the next fifteen years. Not only should the State consider the interaction of its funding of RGGI programs with these other funding sources, the State should coordinate these efforts with ongoing legislative and regulatory changes at the State, federal and local levels. If the State fails to do so, the credibility and effectiveness of the State's clean energy programs will be undermined.

The demands placed on our customers are particularly difficult now. Customers are asked to support increasing levels of taxation and expansion of public benefit programs, all during one of the worst recessions in our history. While the Commission recently deferred a comprehensive review of its own programs (RPS, SBC and EEPS) until 2013,[6] the Revised Plan provides an opportunity to examine these programs in their totality to eliminate redundancy, identify opportunities to streamline programs, seek greater overall efficiency in administration, and demonstrate to *all* customers that these programs are delivering value-for-money.

2. Geographic Equity should be considered a primary criterion to optimize and develop this Revised Plan. The Companies' customers continue to contribute to the State's various clean energy programs in sharp disproportion to deployment of programs in our service territory. The Companies appreciate that statewide programs lacking regional goals can appear more cost effective on a strictly dollars-per-unit basis, but only because this analysis ignores the greater benefits, both environmentally and economically, of expending a significantly greater proportion of these funds in New York City and the lower Hudson Valley. While the Companies were gratified that the Commission recognized the importance of the issue in its recent order on

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[5] PSC Case 03-E-0188, Renewable Portfolio Standard, New York State Department of Public Service Staff, *The Renewable Portfolio Standard: Mid Course Report*, October 26, 2009, pp. 135-138.
[6] PSC Case 03-E-0188, Renewable Portfolio Standard, *Order Establishing New RPS Goal And Resolving Main Tier Issues*, January 10, 2010, p. 27.

the RPS[7] and look forward to contributing to the resulting program enhancements that the Commission has identified, the overall objective of equity across all of the State's programs has not yet been adopted.

For the SBC program, the Companies provide approximately 53.2 percent of the funds for the non-EEPS portion of the program, while NYSERDA spends 42.9 percent of its program funding in the Companies' service territories[8] – a difference that will result in the Companies customers funding more than $148 million of SBC programs in the service territories of other utilities from 1998 to 2011. For the RPS program, no large renewable resources have been built in the Companies' service territories, and smaller renewable resource funding has been disappointing in New York City. Overall, the Companies' customers fund about 47 percent of the RPS program (currently authorized at $741 million), yet only about 2 percent of the funds committed or spent by NYSERDA have been for resources in the Companies' service territories. The EEPS program is just getting underway so data on where funds will be spent is not entirely determined, but geographic balance is less likely to be a concern as a result of a much larger proportion of utility-deployed programs in the EEPS effort.[9]

Unfortunately, rather than redressing the inequities that persist in the RPS, this Revised Plan seems to exacerbate the geographic equity issue. Program expenditures for electrified rail efficiency, photovoltaics ("PV") and advanced power technology--programs that the Companies anticipated would be targeted to a greater degree toward downstate--have instead been drastically reduced. The Companies believe that balance must be restored, if not in the clean energy programs as a whole, then at least within the RGGI funded programs themselves. The

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[7] *Ibid*., pp. 14-17.
[8] New York Energy Smart Program Evaluation and Status Report, Year Ending December 31, 2008, pp. 2-5, 2-6.
[9] *E.g.*, Case 07-M-0548, Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard, *Order Establishing Energy Efficiency Portfolio Standard and Approving Programs*, June 23, 2008, p.49

Companies recommend that at least one-half of RGGI funds focus on efficiency, photovoltaics, offshore wind and other technologies that can be readily deployed in New York City and the Lower Hudson Valley.

3. Electric utilities should be viewed as key partners with NYSERDA in the optimization and delivery of all the clean energy programs and in the implementation of the RGGI Operating Plan. Utilities, like Con Edison and O&R, have been given increasing responsibility in the implementation of energy efficiency and smart grid programs.[10] Similarly, the Companies' knowledge of their customers—and ability to reach them—as well as knowledge of their electric systems should be tapped to accelerate the deployment of PV in its territory. While progress is being made to increase utilities' contributions to meet the State's goals, that effort must grow as an overall component of program development.

4. Finally, while the Revised Plan recognizes that auction proceeds may exceed estimates, and offers some options for program expansion, the Companies urge that the Revised Plan specifically identify and prioritize the programs to be funded if funding is greater than anticipated, especially with the criteria of geographic and ratepayer equity in mind. In this way, utilities and other market participants can be prepared to implement the selected programs without delay should the funding materialize.

In addition, thought should be given to tying the increased availability of RGGI funds to the factors driving the increased revenue levels. If the RGGI program generates greater revenue than estimated in the Revised Plan, it is likely that load levels are increasing due to increasing levels of economic activity – especially in areas where the State has been most affected by the recent economic downturn, such as New York City. Therefore, the Companies recommend that

[10] See note 8, *supra*.

additional targeted programs to achieve carbon reductions and also mitigate costs in these areas be adopted, with a priority given to energy efficiency first, followed by smart grid/AMI, and then perhaps PV, offshore wind and other technologies.

CONCLUSION

The Companies urge NYSERDA to consider these comments in finalizing the Revised Plan. We look forward to continued participation in the New York State RGGI process and appreciate the opportunity to provide comments.

Respectfully submitted,

/s/ Stuart Nachmias