

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

Proceeding on Motion of the Commission to Enable
Community Choice Aggregation Programs

CASE 14-M-0224

**COMMENTS BY CITIZENS FOR LOCAL POWER ON COMPLIANCE FILINGS BY UTILITIES
REGARDING DATA FEES**

September 16, 2016

On April 21, 2016, the New York State Public Service Commission (“Commission”) issued its *Order Authorizing Framework for Community Choice Aggregation Opt-out Program* (“Order”). Pursuant to Ordering Clause 4, on August 5, 2016, Central Hudson Gas & Electric, Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc., New York State Gas & Electric, and other investor-owned utilities (the “Companies”) filed proposed tariffs to establish fees for data needed by municipalities to implement Community Choice Aggregation (“CCA”) programs. Citizens for Local Power (“CLP”) and the municipalities and organizations listed below respectfully submit comments on these filings and urge the Commission to reject the proposed fees and fee structures, which bear no relationship to the cost to the Companies of providing the data, and will impose an undue cost on public energy programs.

In their tariff filings, the Companies providing both electric and gas services propose the following fees¹:

	Aggregated data	Customer data	Monthly list
Central Hudson	\$.45/customer	\$1.35/customer	\$1.00/customer

¹ NYSEG is not included in the chart because the Company did not propose specific fees in its tariff filing, instead leaving the setting of fees entirely to the discretion of the Company on a case-by-case basis—an approach we do not support.

Orange and Rockland	\$.30/customer	\$2.70/customer	\$1.50/customer
Con Edison	\$.30/customer	\$2.70/customer	\$1.50/customer
Niagara Mohawk	\$.12/customer	\$1.08/customer	\$1.08/customer

We would argue that there is no justification for a per-customer price structure, and that in all cases the fees are excessive. The CCA Order requires Companies to provide very basic data that is already in their systems,² and whether they produce a data set of 500 records or 5,000 records should make little difference in terms of cost. With regard to aggregate data, all of the Companies have provided NYSERDA with kWh data by customer type (residential, commercial, industrial) on a municipality-by-municipality basis, for the Utility Energy Registry (“UER”). While the UER does not include aggregate peak demand (kW) data, the Companies presumably have this data in an automated system, as well. The customer-level data that the Companies are required to provide under the CCA Order is also already automated for billing purposes. None of the Companies complied with the requirement of the CCA Order to provide an explanation as to how their proposed fees reasonably relate to the cost of providing it, suggesting that there is no relationship.

In the Commission’s *Order Adopting a Ratemaking and Utility Revenue Model Policy Framework*, the Commission uses the example of utility data to distinguish between types of regulatory treatment, noting that utilities will be required to make certain types of data available at no cost; and charge only a nominal fee for data that is more detailed/and or more frequent.³ We argue that the aggregate data specified in the CCA Order constitutes the type of data that should be provided at no cost, and that the customer data should be provided at a

² NYS Public Service Commission, *Order Authorizing Framework for Community Choice Aggregation Opt-out Program*, April 21, 2016: p. 44. Aggregate data to be provided includes: The number of customers by service class, aggregated peak demand (kW) by month for the last 12 months, by service class if possible, and the aggregated energy for electricity (kWh) or volumetric consumption of gas by month for the past 12 months by service class). Customer data to be provided includes basic customer contact information and primary language, if available.

³ May 19, 2016.

nominal cost. We recognize that there are costs to responding to municipal inquires for data requests, but believe that for aggregate data, these costs could be minimized if municipalities were able to access what they needed from the UER rather than by contacting the utility. CLP recommends that the Companies work with NYSERDA to ensure that the UER data conforms with the CCA Order and is regularly updated. This would significantly streamline the data acquisition process, and would avoid the need for the Companies to respond to one-off requests. We would also note that, generally speaking, CCA programs are likely to save the Companies time and money through economies achieved by CCAs' service to an entire geographic area, reducing the number of data requests the Companies might otherwise receive from ESCOs and DER suppliers.

As CCAs develop programs to support the build out of distributed energy resources in line with REV goals and the Clean Energy Standard, it is likely that additional types of data will be needed. We urge the Commission to ensure access to such data in a timely manner, and at reasonable cost, to support implementation of such programs.

CCA Data Fees Should Not Qualify as Platform Service Revenues (PSR)

We oppose the petition of Consolidated Edison Company of New York, Inc., and Orange and Rockland Utilities, Inc., requesting the Commission to qualify the proposed data fees as Platform Service Revenues. As Pace Energy and Climate Center demonstrated in its comments on this petition, the Companies have not provided an appropriate justification for doing so, and the Companies' cost estimates are unsubstantiated and use a faulty pricing model.⁴

Due to the public nature of CCA programs, CLP believes that data fees for these programs should not qualify as PSRs under any conditions. Local governments are not private entities that earn a profit from energy services. As with the provision of other government services, CCA programs are intended to serve the public good. In the CCA Order, the

⁴ Comments of Pace Energy and Climate Center, Case 14-M-0224, September 6, 2016.

Commission recognizes the valuable and unique role that local governments play in advancing and achieving State energy goals and observes that “local governments are an effective and powerful resource for educating and engaging citizens to take action with regard to energy that is positive for the environment, the resiliency of our power grid, and their own pocketbooks.”⁵

The Sustainable Westchester Pilot Should Be Considered Non-Precedential

The Sustainable Westchester CCA pilot offers valuable lessons for CCA development in New York. Like other REV demonstration projects, however, the particular characteristics of its program design should not be considered precedential, including the pilot’s charge for aggregate data. The demographic characteristics of Westchester are very different from those of more rural communities upstate, where the burden of those data costs may be proportionately greater. Michael Gordon, the chief architect of the Sustainable Westchester pilot and a panelist on the aggregated data panel at the December 4, 2015, Technical Conference, agreed with and expressed support for the comments of CLP and the City of New York that aggregated data should be provided to municipalities at no charge.⁶

Conclusion

CLP and the signatories listed below respectfully request the Commission to reject the fees for data proposed by the Companies, which bear no relationship to the cost of providing such data, and urge the Commission in its review of the tariff filings to consider the public purpose for which the data is being used as well as the very low cost to the Companies of providing such data, particularly if the UER is enhanced and updated to serve CCA programs. We believe that based on these considerations, a strong justification exists for providing aggregate data to CCA programs at no charge, and customer data at a nominal charge. We look forward to seeing CCAs develop in New York and realize their potential to catalyze local

⁵ CCA Order: p.3.

⁶ Technical Conference Regarding Customer and Aggregated Data Provision and Related Issues, December 4, 2015: Comment period following panel presentations.

clean, distributed energy investments in line with state and local energy goals to the benefit of ratepayers, the economy, and the environment.

Respectfully submitted,