

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

- Case 02-E-0781** - Consolidated Edison Company of New York, Inc. – Proceeding on Motion of the Commission as to an Electric Tariff Filing to Establish a New Standby Service in Accordance With Commission Order.
- Case 02-E-0780** - Orange & Rockland Utilities, Inc. – Proceeding on Motion of the Commission as to an Electric Tariff Filing to Establish Standby Service in Accordance With Commission Order.

PREFILED DIRECT TESTIMONY OF

CONSTANTINE “DENO” DAMASKOS

MARCH 20, 2003

DIRECT TESTIMONY OF CONSTANTINE "DENO" DAMASKOS

1 **Q. Please state your name, occupation and business address.**

2 **A. Constantine Damaskos.** I am Director of Development for RealEnergy, Inc.

3 My business address is 850 3rd Ave, Floor 10, New York, NY 10022.

4 Alternate:

5 **Tim Daniels.** I am VP, Government Affairs for RealEnergy, Inc. My

6 business address is 850 3rd Ave, Floor 10, New York, NY 10022

7 **Q. Please describe your qualifications.**

8 **A. Constantine "Deno" Damaskos**

9 As Director of Development, Mr. Damaskos is in charge of the development
10 and underwriting of RealEnergy's OSG opportunities throughout the
11 Northeast. As such, he is responsible for managing the collection of site
12 information, analysis of electric and thermal rate schedules, initial sizing of
13 CHP system components and modeling of project economics.

14

15 Prior to joining RealEnergy Mr. Damaskos was the Director, Regional
16 Product Development for Enron Energy Services. He was responsible for the
17 team charged with developing and managing the regional energy asset-related
18 product lines including Demand Side Management, load curtailment and on-
19 site generation sold by Enron within the United States. While at Enron
20 Energy Services, Mr. Damaskos also held the position of Director of Asset

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1 Underwriting. In this position, Mr. Damaskos was responsible for
2 establishing the value and associated risks of energy-related infrastructure
3 upgrades for Enron’s long-term energy outsourcing transactions with Fortune
4 500 Companies.

5
6 In addition Mr. Damaskos has provided Demand Side Management consulting
7 services on behalf of Pacific Gas & Electric Co. to their large commercial and
8 industrial clients. He was responsible for managing project development,
9 financial analysis and engineering. Successful projects include Masonite
10 Corporation (International Paper), Kraft General Foods, Homestakes Mine
11 and Cisco Systems.

12
13 Mr. Damaskos was the also the Engineering Manager for EUA Cogenex’s
14 West Coast office. He was responsible for the development and
15 implementation of energy efficiency projects and on-site cogeneration
16 opportunities in the Western United States.

17
18 Mr. Damaskos has been involved in the energy industry for over 18 years and
19 holds a BS in Electrical Engineering (Power Systems) from Northeastern
20 University in Boston, Massachusetts.

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Tim Daniels

Mr. Daniels is the Vice President of Government Affairs for RealEnergy’s East Coast operations. Prior to joining RealEnergy, he worked as a Fellow for the U.S. Combined Heat and Power Association in Washington, DC. In addition to member regulatory and legislative analysis, he represented the association before Congress and various Federal agencies on matters primarily relating to energy tax policy, electricity restructuring and emissions regulations.

Mr. Daniels also held several policy positions in the U.S. House of Representatives and the U.S. Senate from 1997 to 2001 including serving as Legislative Direct for one of the largest congressional caucuses - the Northeast-Midwest Coalition. In this role, Mr. Daniels advised a bipartisan group of over 30 Members of Congress on a range of energy, environmental and economic development issues that affected the 18 states of the Northeastern and Midwestern regions. He was also involved in crafting some the early drafts of electricity restructuring legislation in the U.S. House during the 106th Congress.

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1 Mr. Daniels has a B.A. in Political Science from Emory University in Atlanta,
2 GA, and a M.S. in Environmental Sciences from Johns Hopkins University in
3 Baltimore, MD.

4 **Q. Please describe the nature of RealEnergy's business.**

5 A. RealEnergy is a developer, owner and operator of clean efficiency onsite
6 combined heat and power (CHP) systems. RealEnergy's primarily focused on
7 installing CHP systems in medium to large commercial properties including
8 office buildings and hotels. Typically these customers have a medium load
9 factor, but the entire range of customer types and load factors are present in
10 RealEnergy's current CHP portfolio. RealEnergy CHP systems generally
11 range in size from 500 kW to 3 MW and provide about 40-60% of a
12 building's peak demand and energy needs.

13 **Q. Please describe the current status of the RealEnergy's CHP/OSG
14 development program in Con Edison's service territory.**

15 A. RealEnergy opened its East Coast office in New York City in the first quarter
16 of 2002. The company intends to become one of the leading developers and
17 owners of ultra clean high efficiency CHP systems in the Northeast.

18 RealEnergy has several projects are under contract and the expects to
19 complete construction of its first group of CHP systems by 3rd Quarter of this
20 year. company's RealEnergy anticipates having a total of 10-15 MW of

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1 generation within the Con Edison service territory under contract by the end
2 of 2003.

3 **Q. Please describe a typical RealEnergy project in the Con Edison service**
4 **territory.**

5 **A.** A typical RealEnergy customer, in the Con Edison service territory, is a large
6 (greater than 500,000 square feet) Manhattan office building served currently
7 under Con Edison's Service Classification No. 4 (full service or retail access,
8 Rate II, low tension service). Buildings of this type generally have a medium
9 load factor of approximately 45-60% and a peak demand of greater than 2.5
10 MW.

11
12 RealEnergy typically proposes installing a Qualifying Facility combined heat
13 and power system with a peak power output of about 1.2 MW, or 50% of
14 client's current peak demand. The CHP system's excess heat is recovered and
15 provided to the client's building as either chilled water or hot water.

16
17 Systems typically consist of one or more natural gas fired reciprocating
18 engines, although other technologies and hybrid renewable systems
19 occasionally do match the needs of certain customers.

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1 **Q. What is the impact of the proposed rate on this typical project?**

2 **A.** The allocation factors proposed in the Joint Proposal would increase the
3 customer's payment to Con Edison, for transmission and distribution services,
4 by approximately **twenty percent**. This will have a significant negative
5 impact on the economic viability of many of our CHP projects in the Con
6 Edison service territory, especially taking into account the medium to low
7 load factors of most commercial customers that result from their highly
8 variable seasonal thermal demands

9 This value was calculated using the standby rates were in this calculation:
10

| Standby Service (Per kW) | Summer | Winter |
|--|---------------|---------------|
| Transmission Contract Demand Charge | \$ 0.0000 | \$ 0.0000 |
| As-used Daily Transmission Demand Charge | \$ 0.2702 | \$ 0.1514 |
| Distribution Contract Demand | \$ 4.6600 | \$ 4.6600 |
| As-used Daily Distribution Demand Charge | \$ 0.5721 | \$ 0.2790 |

11

12 These standby service rates were calculated using the formulas provided by
13 Con Edison in the four-page handout "Illustrative Matrix Reallocation"
14 presented the January 8, "Standby Rate Technical Conference" hosted by Con
15 Edison.

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1 **Q. What is your position regarding the standby rate as outlined in the Joint**
2 **Settlement Proposal of March 12, 2003?**

3 A. RealEnergy opposes the Joint Proposal filed on March 12, 2003 in the above-
4 referenced proceedings, both with respect to its overall structure and to certain
5 specific details. In addition, RealEnergy supports the “Joint Supporters Initial
6 Comments and Proposal in Opposition to Joint Proposal Filed on March 12,
7 2003” and suggests several additional changes in comments below.

8 **Q. What are your specific objections to the proposed settlement?**

9 A. RealEnergy’s objections to the Joint Proposal fall into two general categories.
10 The first category relates to the overall structure of the proposed standby rate
11 and how that structure will affect the viability of future projects in the Con
12 Edison service area. The second category relates to a number of specific
13 provisions in the Joint Proposal that in our opinion either directly violate the
14 guidelines established in the Generic Order¹ or at least conflict with its intent.

15

16 General Structure

17

18 1. The Generic Order states that “The standards reflect the premise that
19 standby delivery service is sufficiently different from full delivery service

¹ Case 99-E-1470 – “Proceeding on Motion of the Commission as to the Reasonableness of the Rates, Terms and Conditions for the Provision of Electric Standby Service.” October 26, 2001.

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1 to justify some difference in treatment, but that not enough valid cost data
2 exists for Onsite Generators (OSG) to justify creation of a separate service
3 classification or classifications for standby service.”² Furthermore, it
4 refers to the “unique usage characteristics of standby customers” on Page
5 7. And finally, in comparing standby customers to those without OSGs
6 the Order states as fact that standby customer have “intermittent and more
7 random reliance on the delivery system.”³

8
9 The Public Service Commission (PSC) and Con Edison (the Utility) have
10 not presented an adequate body of evidence to support these statements of
11 principle, which form the underpinning of the entire structure and purpose
12 of the proposed standby rate. Lacking proper data the PSC has failed to
13 prove that the load profiles of OSG customers are sufficiently different
14 from non-OSG customers to warrant separate rate treatment. By imposing
15 standby rates on OSG customers without having an adequate
16 understanding of how OSG systems affect all rate payers, the PSC risks
17 unnecessarily damaging a growing and economically efficient industry by
18 assigning an incorrect level of cost to them.

19

² Generic Order, P. 6

³ Generic Order, P.7

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1 2. Under the rate structure of the Joint Proposal, customers installing even a
2 small OSG system (i.e. 20% of the load’s peak demand) must have their
3 entire load moved onto this standby rate. With the standby rate comes a
4 host of new risks and potential pitfalls including the threat of penalties and
5 a semi-permanent ratchet on the contract demand level, neither of which
6 exist under current rates. These aspects of the rate could easily dissuade
7 prospective OSG owners from installing systems that otherwise make
8 sense economically and environmentally, and have been identified by both
9 NYSERDA and the Governor as socially beneficial technologies.

10
11 This flawed aspect of the rate structure violates a fundamental goal
12 described on Page 11 of the Generic Order – “Cost-based standby delivery
13 rates should provide neither a barrier nor an unwarranted incentive to
14 customers contemplating the installation of DG or OSG.”

15
16 3. By imposing this proposed standby rate on systems achieving Federal
17 Energy Regulatory Commission’s (FERC) requirements for Qualifying
18 Facilities (QF) constitutes a violation of the Public Utility Regulatory
19 Policy Act (PURPA) of 1978. PURPA regulations state that rates should
20 not discriminate against any qualifying facility in comparison to rates of

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1 sales to other customers, and that rates should be based on accurate data
2 and consistent system-wide costing principles.

3
4 Page 5 of the Generic Order states “While the principles (cost-based rate
5 design principles) might conceivable apply to the recovery of delivery
6 service costs from all utility customers, the guidelines recommend
7 implementation of these principles for standby service as a specialized
8 form of delivery service. Consideration of changes in delivery service rate
9 design for full-service delivery customers was not the subject of this
10 proceeding and it would, therefore, be inappropriate to conclude that these
11 principles should be applied to delivery service other than standby service
12 at this time.” This section clearly explains that OSG customers, who
13 include QFs, are treated by a rate that uses different “costing principles”
14 than those that are used for other customers in that class but without
15 OSGs. Therefore, this proposed standby rate should not apply to QFs
16 unless it also applies to all other non-OSG customers.

17
18 4. The discussion of revenue neutrality within the generic order and the Joint
19 Proposal fails to consider the impact of the standby rate on future OSG
20 systems. As illustrated in the findings of the fall 2002 NYSERDA report

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1 entitled “Combined Heat and Power Potential for New York State,” while
2 the potential for new CHP capacity in Con Edison’s service territory is
3 several thousand megawatts the types of CHP systems that will be
4 developed in the future are quite different than the mix that is currently in
5 place today. The report describes the average future system as being
6 around one megawatt and located in primarily commercial and
7 institutional facilities. These types of systems have fundamentally
8 different operational characteristics and performance than many of today’s
9 systems that are typically industrial and of a high load factor.

10
11 These new systems described in the report could offer cheaper, cleaner
12 more reliable power in the heart of Manhattan, which today suffers from
13 transmission congestion and frequent capacity reserve shortfalls. The
14 Public Service Commission and Con Edison have not adequately
15 examined the possible effects of this proposed rate on the future mix of
16 OSG technologies and applications, and have in stead focused entirely to
17 much on today’s systems.

18 Specific Objections

- 19 1. Unlike current rates, the Joint Proposal imposes penalties on customers who
20 set their own contract demand level and then accidentally exceed it. No such

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1 penalties exist under current rates and thus pose an unnecessary barrier to the
2 development of new CHP systems. Penalties do not apply to customers
3 without OSGs and the Public Service Commission and the Utility have
4 provided no rational for why customers choosing to install generation should
5 be exposed to this additional level risk.

6

7 2. The Joint Proposal violates the generic order by in effect establishing a
8 permanent ratchet on the contract demand level. The Generic Order clearly
9 states on Page 8 that “fixed, contract demand charges should apply to the
10 customer’s maximum ANNUAL demand. Customers who have changed their
11 USAGE characteristics resulting in reduced maximum annual demand would
12 be allowed to apply for a reduction in the HISTORIC-BASED contract
13 demand charge.”⁴

14

15 However, the Joint Proposal takes a substantially different position by stating
16 that “the new contract demand level cannot be set at a level lower than the
17 highest demand achieved in the previous 12 months unless the customer
18 demonstrates that electricity-consuming equipment is removed or abandoned

⁴ Generic Order, P.8

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1 in place, or permanent energy efficiency or load limiter equipment is installed,
2 based on an engineering analysis submitted to the utility.”
3

4 This position directly violates the intent of the Generic Order, which was to
5 have the contract demand level adjusted at the end of each year to reflect that
6 year’s USAGE or HISTORIC-BASED peak recorded demand. In addition,
7 unlike the Joint Proposal, the Generic Order makes no mention of the need for
8 the customer to conduct an engineering study in order to have their contract
9 demand reduced. Requiring an engineering study would create an
10 unwarranted burden on the standby customer and could have the effect of
11 discouraging investment in load-reducing energy efficiency technology
12

13 Finally, it is RealEnergy’s position that if a customer chooses not to set their
14 own contract demand the level should be determined based on a rolling 12
15 month average of recorded billing demand. This method would allow the
16 contract demand to more accurately track the true demand requirements of the
17 facility and would obviate the need for the onerous application processes
18 described in the Joint Proposal for changing the contract demand level.
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1 3. The Joint Proposal provides a phased-in period for the standby rate for
2 “existing” customers. “Existing” is defined as customers who have a binding
3 contract that was signed prior to January 31, 2003⁵ or are included in the
4 NYSERDA grantee lists in appendices C & D. It is unreasonable to expect
5 that customers should change investment decisions based on speculation about
6 proposed rate structures that have not yet been officially approved.
7 RealEnergy supports moving this date to the effective date of the tariff.

8
9

10 **Q. With respect to the points outlined above, how would you propose to**
11 **correct these flaws?**

12 A. RealEnergy proposes adopting the split, or bifurcated, rate approach outlined
13 in the Joint Supporters proposal. This proposal would put only the portion of
14 a customer’s load served by an OSG onto the standby rate leaving the
15 remaining load, or the supplemental load, on the otherwise applicable rate.

⁵ From the Joint Proposal – “Existing customers are defined as customers operating on-site generation (OSG) and taking standby service from the utility as of January 31, 2003, or who had, as of that date, (i) commenced construction of an OSG facility; (ii) executed binding financial commitments to construct an OSG facility, (iii) been named by the New York State Research and Development Authority (NYSERDA) as an OSG project grant recipient, as listed at Appendix C, or (iv) been named by NYSERDA as a recipient of feasibility study funding, as listed at Appendix D. To remain qualified as an existing customer, a NYSERDA funding recipient under (iv) above must commence operation of its generator within three years from the date of a Commission order on this Joint Proposal.”

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1 This rate structure would eliminate much of the uncertainty and associated
2 risk of the Joint Proposal rate structure by applying the rate only to the portion
3 of the load that’s actually affected by DG.

4
5 Customers should also have the ability to choose their own allocations for
6 contract and daily as-used demand. RealEnergy proposes creating three
7 different allocation formulas for contract vs. as-used demand that match low,
8 medium and high load factor customers. Customers could then have the
9 choice of which allocation best matched their system’s performance
10 characteristics.

11
12 Finally, standby rates should only apply to a facility after an initial start-up
13 period of 3 months. An initial start-up period is necessary for making
14 adjustments to the installation of OSG system.

15
16 **Q. What are your main conclusions and recommendations regarding the**
17 **proposed standby rate?**

18 **A.** In the Generic Order, the Public Service Commission argues that the benefits
19 of OSG systems to the grid should be considered within other proceedings,
20 and that the economic benefits of OSGs are in fact reflected in the “daily as-

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1 used” demand charge in the proposed rate⁶. RealEnergy believes that much of
2 the underlying rationale regarding costs and benefits, coincidence factors and
3 the impact of OSG systems on the grid compared to that of other customers
4 has not properly been studied and therefore is not reflected in the proposed
5 rate. This approach of first creating a rate to address costs without proper
6 consideration of the benefits of OSG systems risks killing, or at least
7 substantially retarding, an industry before it has even had a chance to become
8 established.

9
10 RealEnergy also believes that standby rates for OSG systems should not be
11 considered in isolation to other challenges facing the electricity system. The
12 NYSERDA report on CHP market potential found that there is roughly 2,000
13 MW of CHP potential in the Con Edison service territory.

- 14
- 15 ➤ At a time when a number of major corporations are leaving Manhattan, the
 - 16 ability to provide highly reliable and inexpensive power is a critical tool
 - 17 available to building owners for increasing tenant retention rates.
 - 18 ➤ On December 17, 2002, Con Edison issued a RFP for 500 MW of new
 - 19 capacity in its service area to meet expected future demand.

⁶ Generic Order, P.11

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1 ➤ A study by the Federal Energy Regulatory Commission found that in the
2 summer of 2000 alone, New York City residents paid \$724.7 million in extra
3 power expenses as a result of congestion in the grid.

4 Based on the NY ISO’s February 25, 2003, “Summer Electricity Forecast”
5 New York City has about 8,749 MWs of installed capacity, which represents
6 roughly 80% of its peak demand during summer months. The Forecast quoted
7 William J. Museler, NYISO President and CEO, as saying “Despite the
8 forecast for this summer, New York still needs to focus on getting new
9 generators sited and built on an expedited basis. New York’s electric demand
10 continues to rise and shows little sign of abating. Unless significant
11 generating capacity is added to the system – and soon – demand is going to
12 overwhelm supply and reliability will be at risk.....Because of the two-to-
13 three year lead time to build large baseload plants, if New York is to remedy
14 this situation it needs to get a new siting law in place, plants approved and
15 construction commenced immediately.”⁷

16
17 RealEnergy therefore believes that the Public Service Commission should
18 postpone the adoption of standby rates until such time as a comprehensive
19 system study has been completed that examines the effects of OSG systems on

⁷ NY ISO, Press Release – “New York Independent System Operator Announces Summer Electricity Forecast.” February 25, 2003.

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1 the grid as well as the associated costs and benefits. After completion of the
2 study, the PSC should consider initiating a new proceeding to examine how
3 New York State can best utilize its remaining combined heat and power
4 potential capacity to meet the states electricity needs and challenges, some of
5 which are referenced above.

6
7 If the Commission does decide to adopt standby rates in the absence of a
8 study, RealEnergy would encourage the Commission to consider several of
9 the basic rate structure principles proposed in this testimony and outlined in
10 the Joint Supporter’s proposal of March 12 including a bifurcated rate
11 structure and a customer’s ability to choose allocation of contract and as-used
12 demand without the threat of penalties. By taking this more limited approach,
13 the Commission would avoid the risk of discouraging future investment in
14 OSG systems while also establishing a rate that sends the proper economic
15 signals to customers, owners, operators, and investors.

16 Q. Does this conclude your testimony?

17 A. Yes.