

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on September 17, 2003

COMMISSIONERS PRESENT:

William M. Flynn, Chairman
Thomas J. Dunleavy
James D. Bennett
Leonard A. Weiss
Neal N. Galvin

CASE 03-E-0641 – Proceeding on Motion of the Commission Regarding Expedited
Implementation of Mandatory Hourly Pricing for Commodity
Service.

ORDER ON EXPANSION OF VOLUNTARY
REAL-TIME PRICING PROGRAMS

(Issued and Effective October 30, 2003)

BY THE COMMISSION:

INTRODUCTION

On April 30, 2003, the Commission instituted this proceeding to evaluate the need for changes in the existing, voluntary real-time pricing (RTP) programs¹ offered by five of the six major electric utilities operating in New York.² In the Instituting Order, we stated that the purpose of the proceeding would be “to evaluate the need for changes in the programs, including consideration of mandatory RTP for certain customer classes,

¹ For purposes of this proceeding, the term “real-time pricing” means hourly day-ahead market prices established by the New York Independent System Operator (NYISO) applied to hourly customer loads.

² Case 03-E-0641, supra, Order Instituting Proceeding (issued April 30, 2003) (Instituting Order). Niagara Mohawk Power Corporation was excluded because it requires its largest commercial and industrial customers to take commodity service at hourly, load-integrated prices.

in order to improve the effectiveness of such rates and to advance the public interest in demand shifts and usage reductions during peak periods.”³ Based on our consideration of the comments and of the costs and benefits of voluntary and mandatory RTP programs, we find that the utilities should place increased emphasis on improving and promoting their voluntary RTP programs, and that expanded mandatory RTP programs will not be imposed at this time.

BACKGROUND

As part of our approval of Niagara Mohawk’s PowerChoice rate plan,⁴ we authorized Niagara Mohawk to effectuate a mandatory RTP tariff applicable to its largest commercial and industrial customers. Currently, Niagara Mohawk's largest commercial and industrial customers purchase the utility's commodity service at hourly, load-integrated, day-ahead market prices. In 2001, all other major electric utilities filed voluntary RTP tariffs for commodity service applicable to commercial and industrial customers. No customers in the service territories of Consolidated Edison Company of New York, Inc. (Con Edison), Orange and Rockland Utilities, Inc. (O&R), and Rochester Gas and Electric Corporation (RG&E) take RTP service, and only one customer in Central Hudson Gas & Electric Corporation’s (Central Hudson) service territory participates in its RTP program. New York State Electric & Gas Corporation (NYSEG) serves 32 customers under a program that provides shadow billing at hourly prices but continues to base the customers’ commodity service bills on standard offer monthly averages or two-year fixed energy rates.

Real-time pricing programs can provide significant value to utilities and their customers. The programs can assist customers in reducing peak load demands and in shifting load to off-peak, less expensive time periods. Real-time pricing also provides

³ Id. at p. 3.

⁴ Case 94-E-0098, et al., Niagara Mohawk Power Corporation – Rates and Restructuring, Opinion and Order Adopting Terms of Settlement Agreement Subject to Modifications and Conditions, Opinion No. 98-8 (issued March 20, 1998).

clear price signals to customers and its integration with the customers' hourly load profiles can influence the manner in which they use electricity. Thus, hourly, load-integrated pricing programs allow customers to reduce their electric bills by changing their load profiles in response to price signals. Because of the benefits of such programs, the low level of customer participation in the utilities' RTP programs is a cause of concern which prompted us to seek comments on, and recommendations for, changes to RTP programs that would increase customer participation.

SUMMARY OF COMMENTS

Upon commencement of this proceeding, interested parties were given the opportunity to express their views on the issue of real-time pricing, generally, and to provide comments on particular aspects of mandatory RTP.⁵ In addition, notice of this proceeding was published in the State Register on June 25, 2003. Comments and reply comments were received from 24 parties, representing a diverse group of interests, including utilities, energy service companies (ESCOs), providers of technical and software support services, individual customers, and customer groups.⁶ The majority of comments focused on whether or not hourly pricing should be mandated,⁷ and they generally fall into two categories--supporting or opposing mandatory hourly pricing. Many of the comments, both pro and con, included speculative assertions over customer impact and the expected extent of customer response, and almost all identified the need

⁵ Case 03-E-0641, supra, Notice Requesting Comments (issued April 30, 2003).

⁶ A list of the commenters can be found in Appendix A.

⁷ The New York State Department of Economic Development, E Cubed Company, LLC, and RETX, Inc. did not offer any positions; they only expressed interest in the outcome of the proceeding.

for greater education and information on the use of RTP and its potential costs and benefits.⁸

Comments Supporting Mandatory Hourly Pricing

Amerada Hess Corporation (Hess), an ESCO, asserts that a mandatory RTP program for New York State's largest customers supports our goal of promoting electric load shifting from high priced peak periods and would be the most effective means for maximizing customer participation. Hess contends that the key impediments to success of the voluntary RTP programs are a lack of customer education and customer intolerance to risk/volatile market prices.

Central Hudson supports revising the status of RTP programs from voluntary to mandatory for certain classes of customers. The company argues that mandatory RTP will not only encourage energy conservation, but it will also encourage the shifting of load from higher priced peak hours to lower priced non-peak hours. To the extent that such actions mitigate price spikes, they should lower average market prices. For this reason, Central Hudson submits that all customers, not just those required to take service under RTP, will benefit from a revised program. In addition, the company contends that mandatory RTP will foster customer choice as those customers least able to shift load and control potential negative bill impacts could seek alternative supply options.

Con Edison Solutions, Inc. (CES), an ESCO, states that the best way to achieve improvements in price responsive behavior is through competitive retail products that reflect the energy settlement rules established by the NYISO. CES asserts that the existing utility RTP programs inappropriately apply the NYISO day-ahead market price to participating customers' real time usage. By ignoring the realities of the real time (hour ahead) wholesale market, it continues, the utility programs have an implicit subsidy

⁸ While we have considered all of the comments submitted in reaching the conclusions in this Order, certain issues raised by the parties are not relevant to the determinations set forth herein, and specific discussion of the responses to the 10 questions posed in the Notice Requesting Comments or the tangential issues raised by some parties is not necessary.

that is passed on to other ratepayers and may result in undesired customer responses, such as using more power in response to low day-ahead market prices when real-time prices are significantly higher.

Constellation NewEnergy, an ESCO, states that there are several impediments that discourage participation in the voluntary RTP programs, such as lack of customer education and knowledge, and that many customers have a low tolerance for the perceived risk of price volatility associated with RTP. The company not only contends that it is appropriate to move large customers on utility service to mandatory RTP, it emphasizes that RTP should be the default or provider of last resort service and that the utility should be precluded from providing any other service options to these RTP customers.

General Energy Services, Inc. (Genergy), a consulting and engineering firm, claims that a mandatory program is an effective means of maximizing customer participation. It is also clear, Genergy continues, that voluntary programs do not produce the desired results and this is particularly true in the commercial sector where building owners simply pass on the cost of energy to their tenants and have no real direct financial incentives to reduce or shift load. With enhanced educational outreach, it asserts, the initial resistance to mandatory RTP can be overcome, particularly where the benefits are clear and the costs are modest. Genergy warns, however, that a mandatory program may be interpreted by some as a signal that deregulation has failed and that the re-regulation of electricity rates is just around the corner because a properly functioning efficient market should have produced curtailment solutions, due to their clear benefit to cost advantage.

As a general matter, the National Energy Marketers Association (NEM), a non-profit trade association representing wholesale and retail marketers, supports RTP. It claims that advanced metering and related technologies enable the efficient management of both energy supply and demand through timely, accurate dissemination of critical real-time energy price and usage information. NEM further asserts that RTP permits more accurate forecasting to meet customer demand. It submits that advanced meters will

permit suppliers to more accurately match supplies to meet demand and thereby pass along significant savings to consumers on their energy bills.

The New York Independent System Operator (NYISO) strongly supports greater participation by demand side resources in both the day-ahead and the real-time energy markets. Robust demand reduction, NYISO claims, reduces energy costs for everyone by avoiding the need for the most expensive generation. It also asserts that wholesale energy prices could be flattened significantly if as little as 15 to 20 percent of the load shifts their usage in response to RTP. Active participation by demand side resources in the wholesale market, NYISO continues, has already produced significant market-wide benefits. While customer participation in these programs has grown every year, NYISO argues that the non-emergency programs remain under-subscribed and that retail RTP, both mandatory and voluntary, will assist in expanding these wholesale programs. NYISO recommends that we target certain customers with mandatory RTP and offer voluntary RTP programs to all other customers. It suggests that a phased approach will assist in educating customers, eliminating barriers and thus enhancing the likelihood that RTP programs will be successful.

While Niagara Mohawk generally supports mandatory hourly pricing for large customers, the company asserts that any broader application of mandatory RTP programs to lower usage customers should await our decisions in the Competitive Markets Proceeding⁹ and the proceeding regarding revisions to HEFPA.¹⁰ Further, the RTP programs should not, Niagara Mohawk continues, be designed in any way to minimize migration of customers to ESCOs.

NXEGEN, Inc., an ESCO, strongly supports the expedited implementation of mandatory RTP for industrial and commercial customers. Expanded utilization of

⁹ Case 00-M-0504, Provider of Last Resort Responsibilities, the Role of Utilities in Competitive Energy Markets, and Fostering Development of Retail Competitive Opportunities.

¹⁰ Case 03-M-0117, Implementation of Chapter 686 of the Laws of 2002.

demand management resources, NXEGEN claims, is critical to ensuring a reliable supply of electricity and holding down electricity prices, particularly during peak periods.

Strategic Energy, LLC, an ESCO, states that a mandatory requirement will provide the fastest path to obtaining the highest level of RTP program participation, but customers who are unprepared for this new environment will be apprehensive about their exposure to the price volatility of the marketplace and its new complex rules.

Comments Opposing Mandatory Hourly Pricing

The City of New York (the City) argues that mandatory RTP is an inappropriate policy, as certain customers are not able to participate in it effectively. The City claims that there is at least some evidence that residential RTP may fail to yield sufficient benefits for participating customers to encourage significant enrollment. While it recognizes the value and potential of such programs for large-scale electricity customers who are in a position to shift their load patterns, it contends that a predominantly service-oriented economy, such as in New York City, is not well suited to alter electricity usage in response to price signals as large manufacturers can often do. The City continues that it is well recognized that large industrial facilities do not locate in New York City, and it is largely for this reason there is so little available demand reduction response in New York City compared to the rest of the State. The City then states that the imposition of mandatory RTP would be wholly inappropriate for many forms of commercial and industrial activity in places such as New York City, contending that a redesigned voluntary system would offer a far greater prospect of achieving the goals we identified in our April 30 Order.

Con Edison and O&R recommend that RTP not be mandated for any customer class. If RTP is mandated however, the companies contend it should be targeted to a limited customer population whose modifiable load is commensurate with the program's objective of mitigating energy price spikes during peak load periods. Agreeing with NYISO's assertion, they contend that most price spikes can be substantially mitigated by relatively small reductions in load. Con Edison and O&R say that the benefits we seek to achieve through RTP be derived instead through other

demand reduction programs administered by electric companies and by NYISO, that those programs would not have the adverse response that mandatory RTP is likely to elicit from many of their customers, and that we rely solely on such programs.

Consumer Power Advocates (CPA), which represents large customers in the City, argues that the imposition of mandatory RTP programs cannot succeed at this time given the technological and operational obstacles that must be overcome. Consumers, CPA claims, are already reeling from economic pressures and are ill-equipped to manage the inherent risks associated with such programs. CPA further contends that there is a steep learning curve for the operational and cultural changes that inevitably accompany such a departure from the status quo. The stated purpose of deregulation, it continues, is to promote more, not fewer, choices. CPA therefore encourages us to develop additional customer incentives to RTP program participation and make RTP a voluntary service class.

The Cooperative Coalition to Prevent Blackouts (CCPB), which represents cooperative multifamily housing buildings, asserts that an important objective of this proceeding should be to look at the matter from the point of view of the end-users and determine why few, if any, customers elected to take power under these RTP tariffs. CCPB states that in an environment where customers have choice, tariffs must be viable from the customers' viewpoint. The best way of ultimately maximizing customer participation in RTP programs, CCPB claims, is to have RTP tariffs and ESCOs offering RTP rates that are economically attractive to customers. The organization suggests that it will be necessary to explore specific tariff provisions with target customers to ascertain what might work. Although broad voluntary participation in RTP across many classes of customers is highly desirable for the purpose of demand management and maintaining markets, CCPB is concerned that ordering mandatory RTP at this point in time, without examining how it might work in actual practice for classes of customers with no RTP experience, might be deeply disruptive.

International Wire Group, Inc. (IWG), a customer, is concerned that the goal of partial implementation of mandatory RTP implied by this proceeding will

primarily affect large industrial electricity customers due to the fact that only this group already has interval metering data readily available. IWG is further concerned that, under the circumstances of partial mandatory RTP implementation, small industrial, commercial and high usage residential customers being served at regulated rates, with little or no exposure to any form of RTP, will fail to alter demand levels during periods of upward real time price swings. This could result, IWG asserts, in exaggerated real time prices, due to state-wide aggregated demand levels not being reduced by load reductions of small industrial, commercial and high usage residential customers, which will greatly affect RTP customers.

Multiple Intervenors (MI), which represents large industrial customers, supports our initiative to increase the availability of RTP information to customers because of its potential to yield greater demand response during periods of peak demand. While MI is not opposed to a possible orderly transition to mandatory RTP programs for all customers, if warranted, they raise a number of serious concerns that they believe must be addressed before such a policy is adopted. MI argues that first, several clarifications of the April 30 Order are needed; second, adoption of mandatory RTP programs should be implemented, if at all, in the context of utility rate proceedings, so that the impacts of such a dramatic restructuring can be examined fully; and third, we should ensure that an adequately competitive retail market, with opportunities for hedging, exists before customers are forced onto mandatory RTP programs. Finally, MI asserts, we should reconsider the efficacy and fairness of mandating RTP programs for all customers except residential customers.

NYSEG and RG&E urge us to carefully weigh the ramifications of a mandatory RTP program before making any final determination. They contend that a mandatory program raises fundamental policy matters that we should consider. They further claim that any program mandating certain customers' participation may not be consistent with our desire to afford customers choice. If only the utilities are required to implement mandatory RTP, NYSEG and RG&E assert, customers would be forced to either remain with the utilities under a pricing regime unacceptable to the customers or

switch to an ESCO that does not have a mandatory program. In either event, the companies continue, customers' choices would be more limited. NYSEG and RG&E further contend that if RTP is mandated, we will create a potentially unlevel playing field between the utilities and ESCOs because the utilities would be directed to impose different, and more onerous, requirements on customers than would the ESCOs.

The New York Energy Buyers Forum (NYEBF), which represents large commercial customers in the City, argues that a mandatory program for time-of-use (TOU) billed customers, in the present marketplace, could be one of the worst ways to try to expand price-responsive load. Any effort to force customers taking bundled TOU service to take RTP instead, NYEBF claims, would push many of them to seek fixed price contracts with non-utility providers, actually reducing and not increasing the amount of load that is responsive to time-based price differentiation as it occurs to some degree, under TOU service. NYEBF further argues that mandatory RTP is inappropriate for many commercial and institutional customers who either cannot exercise significant load-specific control or whose business requires use of electric power at specific times (e.g., computers, lighting, elevators, labs, hospital equipment, water pumping).

Nucor Steel Auburn Steel, Inc. (Nucor), a customer, opposes the implementation of mandatory RTP programs and argues that we should focus instead upon expanding and enhancing the effectiveness of demand response programs. Nucor claims that the mandatory nature of RTP is illusory because customers that perceive no benefit in taking service under RTP would likely opt for a fixed priced option from an ESCO. If that is the case, Nucor explains, our reliability, peak load reduction, or energy conservation objectives will not be furthered. Nucor urges us to take the time to focus on pricing programs that would be effective rather than convenient.

DISCUSSION

Two threshold issues were raised in the Instituting Order and addressed in the comments submitted. The first is whether or not we should impose mandatory RTP. The second is which customer classes, if any, should be targeted for participation in RTP programs, whether mandatory or voluntary. The comments submitted demonstrate a third significant issue that must be addressed immediately – the need for greater outreach and education efforts for RTP programs, whether voluntary or mandatory.

Mandatory versus Voluntary RTP

Real-time pricing, with appropriate metering and feedback systems, allows customers to see and potentially respond to high prices during capacity shortages and periods of peak demand. When RTP is integrated with customers' hourly loads, customers who decrease consumption during high price periods will realize reduced electricity costs. If a sufficient number of customers reduce their peak period loads, the lower overall demand should result in lower electricity costs for all other customers, as well. Thus, effective RTP programs will benefit all customers, not just those participating in the programs. However, the predominant application of average pricing, which has traditionally been used in New York, lowers customers' awareness of and precludes their opportunities to respond to RTP signals.

Altering the status of RTP programs from voluntary to mandatory would ensure customer exposure to the program. With advance knowledge of prices, RTP customers would be able to make informed consumption decisions. The impact of RTP on any particular customer depends on that customer's load profile and its ability and willingness to alter operations and/or install load management and energy efficient equipment. It is likely that most customers can ultimately benefit from RTP, although the size of the benefits might vary significantly. As noted above, another benefit of mandatory RTP programs is that they would likely lead to sufficient load reductions during periods of peak demand to mitigate system price spikes and lower market prices for all customers.

Ideally, customers should have an opportunity to see and respond to market price signals so that they can make consumption decisions at the point where the marginal benefit equals the marginal cost. When customers are billed for commodity based on the class-average load shape, customers with consumption predominantly during lower price periods are effectively subsidizing customers with consumption predominantly during high priced periods. Mandatory RTP removes the cross-subsidies while providing incentives for those customers disproportionately consuming during high priced periods to shift load to lower price periods or to conserve. In other words, the electric commodity is more equitably priced under a RTP program than under conventional class-average price rate structures.

However, there are some short-term impediments to instituting mandatory RTP programs, primarily related to lack of customer understanding of RTP and the need for customers to make the financial and other investments necessary for the programs to be most effective. Commenters opposing mandatory RTP have argued that RTP subjects customers to fluctuating, potentially volatile, hourly market prices, rather than stable, average-cost pricing of energy to which they are accustomed. They contend that customers' ability to alter their energy consumption is limited, that energy is widely considered to be a critical business requirement, and that most customers would not modify their load profiles or usage patterns to reduce energy costs. Those commenters have also argued that for some customers, achieving load reductions or shifting to lower-priced periods could require sizeable capital investments for the installation of comprehensive energy management systems or the addition of alternative technologies, such as gas or steam air conditioning or thermal storage capability. Doing so could also require the rescheduling of business operations, such as shifting work to off-peak-energy hours, which could increase other operating expenses and perhaps create business inefficiencies.

While mandatory RTP would be the most effective means of providing the largest number of customers an incentive and opportunity to adjust their electricity usage in response to high prices, these impediments suggest that, at least in the short term,

many customers will not respond to the price signals RTP provides and act on those signals by reducing or shifting loads. We are also concerned that mandating RTP now, without greater customer understanding and acceptance, may create customer resistance to the program, slowing the implementation and expansion of this promising demand response program.¹¹

We are also concerned with the costs associated with implementing mandatory RTP. Most of the largest electricity customers in the State are served under mandatory time-of-day (TOD) pricing and have already installed the interval meters and remote communications capability that is needed for RTP. However, many medium and smaller customers do not have that equipment, and the market for it has not yet sufficiently developed so as to reduce its costs to practical levels. The same holds true for the hardware and software systems needed to allow customers to respond to real-time price signals and properly manage their electric loads. These factors also dictate against imposing mandatory RTP, now. Instead, we will continue with enhanced voluntary RTP programs, as discussed below. We will also monitor how the marketplace and evolving technologies address the foregoing concerns and revisit mandatory RTP at the appropriate time.

Finally, while the comments received from many customers and consumer groups are clear in their general opposition to mandatory hourly pricing, we suspect that their positions are premised more on a misunderstanding of and apprehension about RTP than on actual shortcomings of RTP. For RTP to be successful, it must be fully understood and embraced by customers and fully integrated into their business plans and operations. The initial steps in that process include improving the quality of the utilities' education and outreach efforts and showing customers the potential benefits of RTP. Coordination with and participation in NYSERDA-sponsored programs for installing

¹¹ A number of commenters suggested that if we impose mandatory RTP, now, there would be a large migration of load from the utilities to ESCOs, rather than significant load shifting or load reductions. While we continue to strongly support competition in the energy sector, such a result is inconsistent with our stated goal of considering changes to the utilities' RTP programs.

energy efficient and load management equipment and undertaking conservation efforts may also be helpful in preparing customers for, and defraying some of the up-front costs incurred in, implementing RTP programs. The utilities' promotion of existing RTP programs must be enhanced and expanded, and the other obstacles to RTP suggested by the commentors must also be addressed. The remainder of this Order will detail how the utilities should address these matters.

Targeted Customer Classes

Several parties, both supporting and opposing mandatory RTP, stated that the largest customers are best suited for RTP, whether mandatory or voluntary. We agree. Most of the largest customers in the State are served under mandatory TOU or TOD rates, have already installed interval meters and receive, or could easily receive, hourly consumption data, and are familiar with hourly price fluctuations. Therefore, those customers could adjust to RTP with greater ease than other customers (almost all of whom are billed at non-time varying rates).

Moreover, those customers are more likely to be able to absorb the costs of equipment needed to manage their response to peak period prices and the risks associated with price volatility. Should they choose RTP, they may qualify for assistance through NYSERDA programs that promote installation of energy efficiency equipment and implementation of other energy efficiency measures. Finally, targeting the largest customers could yield the level of demand response and load reductions advocated by the NYISO and Con Edison/O&R as being necessary to mitigate wholesale price spikes effectively.¹²

For the foregoing reasons, the utilities shall continue to promote their voluntary RTP programs to all eligible customers but especially focus their efforts on increasing the participation of their largest customers in the programs. Since there is not unanimity among the utilities regarding customer classifications, for purposes of this Order, the utilities shall interpret the term "largest customers" as encompassing all

¹² For example, Central Hudson indicates that its largest customers represent only 0.02% of its total customer base but consume 29% of its total deliveries.

interval metered customers served under mandatory TOU or TOD rates or with demands in excess of 2 MW. As experience with, and participation by, those customers increases, technology for energy management and efficiency improves, and the costs of implementing RTP decrease, the benefits of RTP should become readily demonstrable and the utilities should expand their programs to attract smaller commercial and industrial, and larger residential, customers.¹³

Outreach and Education

An integral part of any program for reducing demand is effective implementation of educational programs with strong utility public awareness campaigns to advise customers of the need to reduce electric peak demand and of ways to participate in such programs. The utilities have used numerous communication vehicles, including bill inserts and messages, brochures and newsletters, newspaper, radio and television ads, and company websites, to increase customer awareness of their demand response programs and to educate customers about the programs. They have also conducted interviews, meetings and forums with commercial and industrial customers to promote demand response programs. However, the comments received in this proceeding and the dearth of participation in the utilities' RTP programs suggest that the outreach efforts to date have not been effective and that there is still a significant lack of understanding by customers of the need for and benefits of RTP. These problems may be creating barriers to the success of the RTP programs.

First, the utilities shall reevaluate and improve their RTP outreach and education efforts to enhance customer awareness of the availability and benefits of RTP programs. They shall provide enhanced, extensive, and significantly more focused

¹³ Although there may be some large residential and small commercial customers who could immediately respond to high prices in a manner similar to large commercial and industrial customers, their commodity bills tend to be small relative to the cost of installing interval metering and associated energy load management equipment. For this reason, they should not be the focus of the utilities' initial marketing efforts. However, they are encouraged to participate in RTP programs and, upon request to their utilities, should be given the same level of support and assistance provided to the utilities' largest customers.

customer outreach and education to help customers better understand measures they can implement to respond to peak period prices. In developing these revised programs, they are encouraged to work with NYSERDA and take advantage of its experience and expertise in this area.

Second, the utilities shall provide specialized training to the account representatives for their largest customers, enabling them to educate the customers more effectively about RTP. While many parties claim that they cannot reduce load during peak periods, experiences in New York City, California and elsewhere suggest that measures such as turning off lights and slightly increasing thermostats by numerous customers can significantly, albeit temporarily, reduce peak loads. Measures such as shifting certain activities to off-peak periods can permanently reduce peak loads, and installing energy efficient equipment and window treatments can permanently reduce loads, generally. Customers must be advised of all available options and shown that there are specific steps, both temporary and permanent, that could be undertaken to respond, in conjunction with RTP, to market-based price signals. Additionally, customers need to be educated that their energy costs under class average pricing may not significantly vary from their energy costs under RTP, and that, depending on their load profiles, RTP may actually reduce their overall energy costs. Moreover, customers need to be shown that energy consumption is not totally inelastic to price, that RTP will provide the proper signals to guide their behavior appropriately, and that modifications in their consumption could lead to lower overall energy prices.

Third, to make the enhanced educational effort as effective as possible, the utilities should tailor their presentations to each customer according to the customer's particular facts and circumstances. To do so, the utilities are directed to assess the potential bill impacts that RTP would have on each of their largest customers. To the extent data is available; the utilities should compare the hourly load-integrated billing with the actual (average price) commodity service billing information for each customer who takes the utility's commodity services. Using actual bills and available customer load data for a recent 12-month period, the month to month variance as well as overall

annual bill impacts of average pricing versus RTP can be calculated. Using this analysis, the utilities will be able to provide a more detailed presentation to each customer about RTP and the effect energy consumption modifications could have on the customer's energy costs.

Barriers to RTP

In its reply comments, CCPB argued that our submetering requirements effectively create a barrier to RTP in master metered buildings, including cooperatives. Those requirements limit the charges that a landlord or cooperative's governing board may impose on tenants or cooperative members (i.e., the charges cannot exceed the utility's tariffed residential rate). CCPB proposes that the RTP rate be averaged over a 12-month period and then compared to the tariffed residential rate, instead of comparing each hourly rate to the residential rate. This proposal has merit but cannot be considered here. In compliance with the requirements of the State Administrative Procedure Act, the proposal will be noticed for public comment and considered after interested parties have been given an opportunity to express their views on it.

CONCLUSION

The utilities shall improve, enhance and actively promote their voluntary RTP programs. Additionally, they are directed to modify their existing voluntary RTP programs to include more extensive customer education and outreach efforts, targeting their largest customers, who are most suited to respond to hourly prices. The goal of this effort is to make the voluntary RTP programs more effective, increase customer participation in the programs, and thereby assist in reducing and/or shifting peak load demands across the State.

The Commission orders:

1. Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Orange and

Rockland Utilities, Inc., and Rochester Gas and Electric Corporation shall modify and enhance their voluntary real-time pricing programs as discussed in the body of this Order.

2. Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation shall assess the potential impacts that real-time pricing would have on their largest customers (i.e., those on mandatory time-of-use or time-of-day rates or with demands in excess of 2 MW) and report the results of their analyses to the Commission by February 2, 2004.

3. Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation shall submit an original and 10 copies of its plans to the Commission by February 2, 2004 that: (i) specify the manner in which they will promote their voluntary real-time pricing programs to their largest customers; (ii) provide details on improvements to their education and outreach programs targeted to those customers having the greatest opportunities or who are most suited to respond to hourly prices; (iii) undertake other appropriate measures to enhance their voluntary real-time pricing programs and make them more effective; and (iv) provide goals for the level of customer participation in the real-time pricing programs. These plans should be based on the findings set forth in the reports described in the preceding Ordering Clause.

4. This proceeding is continued.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Acting Secretary

COMMENTS RECEIVED ON REAL TIME PRICING

Initial Comments:

Central Hudson Gas & Electric Corporation
City of New York
Consolidated Edison Company of New York, Inc.
Con Edison Solutions, Inc.
Constellation NewEnergy, Inc.
Consumer Power Advocates
Cooperative Coalition to Prevent Blackouts
E Cubed Company, LLC and Joint Supporters
Energy Buyers Forum
General Energy Services, Inc
International Wire Group
Multiple Intervenors
National Energy Marketers Association
New York State Department of Economic
Development
New York State Electric & Gas Corporation
New York Independent System Operator, Inc.
Niagara Mohawk Power Corporation
NXEGEN, Inc.
RETX, Inc.
Rochester Gas and Electric Corporation
Orange and Rockland Utilities, Inc.
Strategic Energy, LLC

Reply Comments:

Amerada Hess Corporation
Consolidated Edison Company of New York, Inc
Cooperative Coalition to Prevent Blackouts
General Energy Services, Inc.
Multiple Intervenors
New York State Electric & Gas Corporation
Niagara Mohawk Power Corporation
Nucor Steel Auburn, Inc.
NXEGEN, Inc.
Rochester Gas and Electric Corporation
Orange and Rockland Utilities, Inc.