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Testimony

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March 16, 2004

Honorable Jaclyn A. Brilling
Acting Secretary, State of New York
Public Service Commission
Three Empire State Plaza
Albany, NY 12223

Re: Consolidated Edison Company of New York, Inc. – Steam Rates; Case No. 03-S-1672

Dear Secretary Brilling:

Enclosed please find fifteen (15) copies of the Direct Testimony of Dr. Lewis C. Cohen submitted on behalf of the New York Energy Buyers Forum ("NYEBF") in the above-referenced proceeding.

All parties to this proceeding have also been served a copy of this testimony pursuant to the attached Certificate of Service. Please date stamp the extra copy of this transmittal letter and kindly return it in the enclosed self-addressed stamped envelope for our filing purposes.

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Very truly yours,

McNEES WALLACE & NURICK LLC

By Charis Mincavage
Charis Mincavage

Counsel to the New York Energy Buyers Forum

CM/lhe
Enclosures
c: Honorable William Bouteleiller (via E-mail and Federal Express)
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of Section 1.54 (relating to service by a participant).

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Dated this 16th day of March, 2004, in Harrisburg, Pennsylvania.

BEFORE THE
NEW YORK PUBLIC SERVICE COMMISSION

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.	:	
	:	CASE 03-S-1672
STEAM RATES	:	

DIRECT TESTIMONY

OF

DR. LEWIS C. COHEN

ON BEHALF OF THE NEW YORK ENERGY BUYERS FORUM

MARCH 16, 2004

DR. LEWIS C. COHEN

Case 03-S-1672

Q. Please state your full name and business address.

A. My name is Lewis C. Cohen. My business address is 104 Woodside Road, Unit B104, Haverford, PA 19041.

Q. By whom are you employed?

A. I am an independent energy management and procurement consultant. I provide consulting services to a broad range of municipal, institutional, and industrial clients. I have spent significant amounts of time in my career focusing on energy issues in New York State. Early in my career, I worked for both the New York State Energy Office and the New York State Energy Research Development Authority on a variety of energy issues.

Currently, through my affiliation with Salerni & Boyd, Inc., of Saratoga, New York, I work with numerous energy aggregation groups, and industrial and commercial clients. The work involves many energy related activities, including competitive procurement of electric and natural gas, participation in a variety of NYISO demand side reduction programs, and interface with various regulatory agencies, including both the New York Public Service Commission and the New York State Energy Research Development Authority.

Q. What is your educational and employment background?

A. I have a PhD from Rensselaer Polytechnic Institute, an MS from George Washington University, and a BS from the State University of New York at Albany. I have been in the energy field for almost 30 years in both the government and private sector, including three years as Vice President of Philadelphia Thermal Energy Corporation and Catalyst Thermal Energy Corporation. A summary of my work experience is attached as NYEBF Exhibit ___(LCC-1).

Q. Have you previously testified in regulatory proceedings regarding utility rates?

A. Yes, I have testified in both steam and electric utility proceedings. I currently represent Thomas Jefferson University, the second largest steam user on the Philadelphia District Steam System, and, on their behalf, I have participated in a number of Pennsylvania Public Utility Commission ("PA PUC") proceedings. I have also represented the Carnegie Institute before the PA PUC in a Pittsburgh Thermal proposed rate increase and the Philadelphia Large Steam Users Group in proceedings before the PA PUC.

Q. On whose behalf are you testifying in this proceeding?

A. I am appearing on behalf of the New York Energy Buyers Forum ("NYEBF"), a non-profit organization, which helps its members manage energy costs. NYEBF

members include hospitals, colleges, state and city agencies, real estate firms, banks, housing co-ops, industrials, and other such entities. NYEBF members receive steam service from Consolidated Edison Company of New York, Inc. ("CEC" or "Company"). NYEBF members use substantial volumes of steam in their businesses, and steam costs comprise a significant element of their respective costs of operation. Accordingly, any modification to CEC's steam rates could adversely affect NYEBF members.

Q. What is the purpose of your Direct Testimony in this proceeding?

A. My Direct Testimony addresses several areas of concern to NYEBF members regarding CEC's steam rate filing. Specifically, my testimony: (1) refutes CEC's request to implement access/demand charges as inappropriate and unnecessary at this time; (2) addresses the problems inherent in CEC's proposal to distribute the proposed rate increase among the rate schedules; (3) proposes modifications to CEC's proposal to allow customers to negotiate fuel costs; (4) objects to CEC's proposal to eliminate Service Classification No. 6; (5) challenges CEC's proposal to eliminate the line loss penalty/incentive mechanism; (6) addresses CEC's proposal to include costs related to the Company's clean-up of the Manufactured Gas Plants ("MGP") into base rates; and (7) addresses policy issues related to the Company's provisioning of steam service.

Q. Please summarize NYEBF's recommendations to the New York Public Service Commission ("PSC" or "Commission") in this proceeding.

A. NYEBF's specific recommendations for action by the Commission are as follows: (1) CEC should not be permitted to implement its proposed access and/or demand charges, as these charges are unjust and unreasonable; rather, if CEC has significant concerns regarding recovery of its Rate of Return, the Company should redesign its current consumption charge block formatting to recover the majority of its costs in the first and second rate blocks; (2) CEC's proposed distribution of any resulting rate increase should be rejected in favor of a methodology that ensures that each customer class is as close to the system average rate of return as possible, while providing just and reasonable rates for all customers; (3) CEC should modify its proposal to provide more flexibility in allowing customers to negotiate fuel costs by providing customers the opportunity to: (a) sell any portions of unused fuel to other customers; and/or (b) cashout unused portions, if any, of the fuel commitments in order to avoid the "Take or Pay" clause provided in CEC's proposal; (4) CEC should not be permitted to eliminate Service Classification No. 6, as the Company has not provided any justification for such elimination; (5) CEC should not be permitted to eliminate the current line loss penalty/incentive mechanism, as CEC has not presented any substantive basis for this elimination; (6) any costs related to CEC's clean-up of

the MGP sites should not be allocated to steam base rates, but rather, should be allocated to the natural gas division; (7) the SC4 rate should remain in place, at a minimum, under the current rates; (8) CEC should not take any actions that would affect the continued use and expansion of steam for summer cooling purposes; and (9) CEC should be required to provide additional information regarding the efforts the Company is undertaking to increase revenues, including steam cooling and lower Manhattan redevelopment, as well as the status of reliability on the system.

I. Proposed Access/Demand Charges

Q. Is CEC proposing to modify its rate design in this proceeding?

A. Yes. The Company currently maintains two basic charges for its Service Classification Nos. ("SC") 1, 2, and 3: a flat customer charge that is imposed regardless of usage, and a consumption charge that is imposed on a per/Mlb basis. See Direct Testimony of Steam Rate Panel, CEC No. 22 (hereinafter, "CEC 22"), p. 10. Because the Company has concerns that the weather is preventing CEC from earning its fair Rate of Return, CEC is seeking to drastically alter its rate structure by adding an access and/or demand charge to SC2 and SC3 rates, in addition to the existing customer charge and consumption charge. Id. at 11. The current SC1 rate structure will remain the same. Id. at 10.

CEC claims that the Company's current rates have not allowed CEC to earn the revenues approved in previous base rate proceedings. See Direct Testimony of Andrew L. Jacob, CEC No. 11 (hereinafter, "CEC 11"), p. 3. For this reason, the Company is seeking a large rate increase and re-designed rates, which would be allow CEC to collect fixed steam system costs through fixed charges while neutralizing the effects of weather on steam earnings. Id. at 4-5. Although the Company claims that the implementation of access/demand charges are necessary to ensure that CEC earns its fixed costs, CEC readily admits that the Company's return on equity continues to remain a positive number. Id. at 3. Accordingly, CEC has been recovering its fixed costs since its last base rate proceeding; however, the Company is seeking to implement access/demand charges at this time because CEC believes it is not able to earn a fair Rate of Return. Id. Although CEC proposes to implement the access/demand charges via a three-phase process, the Company is actually using a two-stage process, as the first phase of CEC's proposal retains the current rates and charges for SC2 and SC3 customers. Phase 2 implements an access charge for all SC2 and SC3 customers based on a Company assigned capacity (i.e., Mlbs/hr). Phase 3 implements an on-peak and off-peak demand charge (based on on-peak and off-peak measured demand) for CEC's 180 largest customers receiving service under SC2 and SC3,

while the remaining SC2 and SC3 customers continue to be subject to the Phase 2 access charge. See CEC Exhibit___(SRP-1).

Specifically, in Phase 2 of CEC's proposed rate design, CEC would determine the class' fixed costs as divided by the class' total Company assigned peak demand, which would result in the class access charge. See CEC 22, p. 14. This class access charge is effectively a demand charge, in that the customer's monthly "surrogate" peak demand would be multiplied by the class access charge to determine the customer's demand charges. Id.

In Phase 3, the Company's largest 180 customers would receive upgraded meters, which would have the capability to record demand profiles. According to the Company, these customers represent 50% of CEC's annual steam sales, rendering demand metering cost-justified for this group. Id. at 12. With these demand meters, the Company would determine the customer's on-peak demand from its highest thirty minute demand occurring from 6 AM to 11 AM during November through April and the off-peak demand from the highest thirty minute demand from all other hours. The Company would then have both on-peak and off-peak demand charges for both the November through April and May through October periods. The off-peak demand charges would only apply to the incremental level, if positive, that the off-peak demand exceeds the on-peak demand. Even though these customers would have meters that could measure demand, the

aforementioned "thirty minute on-peak and off-peak demands" would be used to determine the customer's billing demands for the entire applicable twelve-month period.[1] Id. at 21.

In other words, if the customer's highest on-peak demand is 10,000 Mlbs occurring at 9 AM on December 15, the customer will be charged for this peak demand for the entire applicable twelve-month period regardless of the actual demand metered for the customer, unless a higher peak is recorded, which will then be used.

Q. Is CEC's proposed access/demand charge merely a Weather Normalization Clause ("WNC") under a different name?

A. CEC provides a preliminary discussion regarding a WNC and a request that a WNC be considered by the PSC if CEC's rate re-design is not accepted. This proceeding should not be a choice between a WNC or the rate re-design, as, in my opinion, both options represent a lose-lose situation for the steam ratepayer. Accordingly, even if the PSC appropriately rejects CEC's rate re-design proposal,

[1] A reading of CEC's filing obliquely suggests that CEC would only apply the demand charge from November through April; however, CEC's proposed tariff language and accompanying exhibits indicate that the demand charge would apply for the entire twelve-month period. Even applying the demand charge from November through April would be unjust and unreasonable, based upon the problems inherent in CEC's proposal.

the Commission should not permit CEC to implement a WNC as an alternative, as the WNC is similarly unjust and unreasonable.

To a point, CEC's proposed rate design serves the same purpose as a WNC. Although CEC claims that the access/demand charges more closely align rates with system costs, thereby differing them from a WNC, CEC's access/demand charge proposal contains the same attributes as a WNC. More importantly, where a WNC can provide for positive or negative adjustment, CEC's proposed rate re-design provides CEC with a guaranteed floor on base revenues from SC2 and SC3 customers, which can only increase if the customer's peak demand increases or there are new customers.

Q. Should the Company be guaranteed 100% of its base revenues regardless of weather?

A. No. Variations in weather are associated with a steam company's business risk. The greater uncertainty that an event will occur, the greater the risk involved. Because weather cannot be accurately predicted in advance, risk exists as to: (1) whether a future year's weather will be colder or warmer than normal; and (2) the degree by which weather may vary from year to year. Because steam sales are a function of weather, the inability to accurately predict weather in the future produces a similar uncertainty regarding estimated steam sales. This inability to accurately predict sales relates to a steam company's weather related-business

risk. For investor-owned utilities, this risk is generally reflected in its cost of capital.

As a result, net income varies with revenues, and uncertainty regarding revenues results in uncertainty regarding net income. The greater the uncertainty regarding revenues and income, the greater the risk to investors. Investors seek to be compensated for this risk through a utility's cost of capital. The access/demand charges CEC seeks to implement would eliminate or reduce the impact of weather variations on throughput, thereby stabilizing revenues and net income and reducing investor risk. In actuality, however, the benefits proposed by CEC are extremely one-sided. CEC is kept whole in warmer weather due to the demand charge, while CEC retains the potential for excess revenue in colder than normal weather due to the combination of the one-way demand ratchet feature for demand metered customers and increased customer consumption.

Moreover, CEC submits that one of the reasons for its requested rate increase is to increase the Company's Rate of Return based upon the "risk" inherent in the utility business. See Direct Testimony of Robert G. Rosenberg, CEC No. 4 (hereinafter, "CEC 4"). In other words, CEC undertakes the risk that some winters may be colder than normal, thereby producing greater revenues, and some winters may be warmer than normal, thereby producing lesser revenues. CEC cannot be permitted to capitalize on this risk twice, as it seeks to do in this

proceeding. If CEC implements the proposed access/demand charge, then CEC's equity cost of capital must be appropriately reduced to account for this lessened risk. Conversely, if CEC seeks a Rate of Return inclusive of this inherent "risk," the Company cannot benefit from this Rate of Return, while also ameliorating the risk via the neutralization of rates. In other words, the Company's proposed access/demand charge would inappropriately benefit CEC to the detriment of CEC's customers. Because CEC's "risk" of uncertain revenues due to unpredictable weather is already accounted for through the Company's Rate of Return, further mitigation is not required.

Q. Are there any other problems inherent in CEC's proposed access/demand charge?

A. Yes, the basis for CEC's proposal provides overwhelming benefits to-the Company while detrimentally impacting customers. Specifically, CEC's proposal could result in a guarantee for the Company of all of its fixed costs while still providing CEC with a significant Rate of Return. Thus, both the access and the demand charges are established in such as manner as to hinder customers from receiving just and reasonable rates on the Company's system.

SC2 and SC3 customers represent over 95% of the Company's revenues. For these customer classes, CEC's proposal changes the Company's current process of recovering 100% of its base revenues from a consumption based charge to a

means by which the Company recovers 100% of its base revenues from a fixed demand charge. Such a modification is a dramatic rate re-structuring from consumption to demand based rates, especially considering that none of these customers have had demand meters and, accordingly, have no way of knowing their demand level. Moreover, these customers have not had the opportunity to consider the possibility of a demand charge in light of any previous decisions they may have made regarding the reduction of their demand.

In my experience with steam systems, if a fixed demand charge is present, it often represents less than 50% of the base revenues, with the remainder being recovered through usage charges. Because CEC seeks to inappropriately recover 100% of its base revenues from the proposed demand charge, the Company's proposal should be rejected by the PSC.

If, however, CEC determines that the Company must move towards demand metering, CEC should be required to install demand meters on its larger customers, take sample readings, and work with these larger customers to develop a future revenue-neutral demand/consumption billing structure. In no event, however, should the fixed demand charge provide the Company a guarantee of over 50% of CEC's base revenues.

Q. What are some other problems inherent with the access/demand charge?

A. CEC proposes to implement demand-based billing for customers that would not have demand meters. In this age of sophisticated metering, no steam customer should be exposed to demand billing without demand meters. If a customer is too small for demand meters, the customer should not be exposed to any demand billing.

CEC is proposing to place demand meters on the largest 180 customers on its system for purposes of determining the customer's highest one-hour peak demand as it occurs between the hours of 6 AM and 11 AM on any day during November through April. CEC will then bill these customers for their peak demand levels for a twelve-month period (albeit at a lower rate during the May-October period), resulting, effectively, in a twelve-month demand billing ratchet. As a general rule, and in order to provide off-peak usage incentives, I do not believe that customers should be billed for demand during the off-peak months.[2]

Similarly, without obtaining accurate demand information, CEC's use of a surrogate charge (i.e., "access charge") may result in an inappropriate subsidization within this class of customers, assuming that it is appropriate to

[2] Based upon my understanding, the Company is seeking to apply a twelve-month demand ratchet. Even if the Company is proposing to implement the demand charge during a six-month period (as obliquely suggested in CEC's filing), the demand charge still contains significant flaws.

allocate 100% of base charges on a demand basis. CEC's proposal is unclear with respect to whether the Company's development of the "surrogate" demand results in an equitable allocation of base rate revenues. In other words, CEC has not provided the empirical data necessary to determine whether utilizing the existing customer contribution would detrimentally impact customers with a higher than average demand load. This approach may result in customers with a better load factor subsidizing those customers with a poor load factor, thereby resulting in unjust and unreasonable rates. Thus, the only means by which to ensure accurate and reliable information for use in a demand charge is to meter those customers subject to any such charge.

Moreover, CEC fails to provide a means by which a customer can receive credit for improving its load factor. In many electric rate designs where KW demand and KWH energy usage are both measured, customers with high load factor pay a lower average price than low load factor customers due to the efficiency of their usage. In contrast, under CEC's proposal, a small customer could install equipment that would significantly improve its steam demand profile, but, because the demand is based upon an assigned surrogate demand, the customer would not benefit from the economically efficient modification. Similarly, a larger customer is subject to the previous twelve-month ratchet under the demand charge, even though the customer may have taken steps during the summer

months to greatly improve its load factor. CEC's proposed rate re-design fails to account for these circumstances.

Q. If the PSC determines that some methodology should be implemented to account for NYBEF's concerns, what do you recommend?

A. As I mentioned previously, if CEC is permitted to implement a demand or "surrogate" demand charge, the Company must be required to meter those customers subject to the charge and then bill the customers according to the actual meter readings. Such a method would ensure that customers are being charged based upon their actual demand. As stated earlier, however, I would not recommend such a drastic restructuring of the rates at this time.

Since CEC believes that the required metering for such a proposal would not be cost-efficient, CEC could modify its current usage rate design in place of the proposed access/demand charge. CEC's current usage charge provides for a three-tiered block with a different rate based upon maximum usage. Unlike standard rate design, which provides for a decreasing rate as consumption increases, CEC's first block contains the lowest rate, with the remaining blocks differing from highest to lowest. If CEC eliminated the first block under its existing tariff, the Company would collect an estimated $16 million more a year in revenue without dramatically altering the rate structure.

If CEC used a declining block rate, CEC could ensure that the majority of its fixed costs were collected in the first and second blocks, while not overcollecting rates, which would occur under CEC's proposed access/demand charge. CEC could modify the rate blocks in terms of usage or rates in order to ensure adequate recovery of fixed costs, while avoiding the need for additional metering. Accordingly, CEC should not be permitted to implement the proposed access/demand charges, if at all, until the Company provides meters for all customers subject to the rate and applies any demand charge to the actual meter reading. In addition, if CEC is permitted to implement an access/demand charge, the Company should be required to implement conjunctive peak demand for customers' accounts. In the alternative, CEC should not be permitted to implement this proposed charge until the Company has exhausted consideration of more optimal rate designs, such as a modification to its current block usage charge.

II. Distribution of Proposed Rate Increase Among Rate Schedules

Q. Have you reviewed CEC's proposed distribution of the rate increase among the rate schedules?

A. Yes. CEC developed a "pure base rate percentage increase" by dividing the rate year revenue increase by the total rate year pure base revenues. CEC 22, p. 5. The overall pure base rate percentage increase was then applied to SC 1, 2, and 3

rate year pure base revenues to determine the increased revenue requirement for each class. Id. CEC notes that none of the increased revenue was allocated to SC5, as this is a negotiated rate agreement service that is offered by the Company to retain and attract customers with competitive alternatives to the Company's steam service. Accordingly, no increase was allocated to SC5, as SC5 customers are charged based upon fixed contractual terms. Id. at 7.

Q. Did CEC perform a Cost of Service Study to justify its proposed distribution?

A. Yes, CEC prepared an Embedded Cost of Service Study ("ECOS") for the steam system; however, CEC is not recommending that the results of the ECOS be used to allocate revenues among the classes in this proceeding. See CEC 22, p. 25. According to CEC, the proposed increase should be allocated on an equal percentage basis to all classes "in order not to exacerbate already relatively large customer impacts." Id. at 26. Moreover, although CEC prepared an ECOS, the ECOS only addresses the Rate of Return information at present revenues and does not provide the Rate of Return information at proposed revenues.

Q. Do you agree with the Company's proposed distribution?

A. No. The goal in designing rates should be to ensure that each customer classification is as close to the system average Rate of Return as possible.

According to the ECOS, the total steam system current average Rate of Return is 5.55%. See CEC Exhibit___ (SRP-9), No. 57, Table 1, Page 1. For SC 2, the current Rate of Return is 5.85% and for SC3 the current Rate of Return is 5.45%. Conversely, the current Rate of Return for SC1 is only 2.72%. Upon implementing the proposed across-the-board rate increase, the Rate of Return for SC2 will move even farther above the system average, and the Rate of Return for SC3 will most likely be above the system average Rate of Return, while the Rate of Return for SC1 will continue to be significantly below the system Rate of Return. In fact, further review of the ECOS indicates that SC1 currently maintains a revenue deficiency of approximately $1.5 million, as compared to SC2 and SC3, which do not have any revenue deficiencies. Accordingly, CEC's proposal does not further overall rate design goals, as the first $1.5 million of any rate increase should be allocated to SC1 in order to cure this deficiency. Because CEC's proposed rate increase moves rate schedules farther away from the system average Rate of Return, CEC's proposal further exacerbates problems inherent in the ECOS. For example, Table 7 provides the allocation factors for the ECOS, including the allocation of book cost of meters and access equipment. Under this allocation, SC2 customers are allocated 71% of the total cost, while SC1 customers are allocated 10% and SC3 customers are allocated 19% of the total cost. See CEC Exhibit___ (SRP-9), Table 7, p. 1. According to the ECOS,

this allocation is based upon an inventory of existing consumption meter and meter costs; however, only 46% of the meters in service are allocated to SC2 customers, with 21% of the meters allocated to SC1 customers and 32% of the meters allocated to SC3 customers. Accordingly, SC2 is being allocated for 71% of meter costs, while it only maintains 46% of the meters. Conversely, SC1 is being allocated for only 10% of meter costs, even though it maintains 21% of the meters. Thus, the ECOS allocation factors may be skewed.

If the allocation factors in the ECOS are not correct, as suggested by the skewing in the aforementioned allocation, the resulting Rate of Return for SC1 may be further below the system average than that currently indicated. Moreover, allocating any rate increase pursuant to an across-the-board percentage further exacerbates the problems inherent in the ECOS. Accordingly, CEC should be required to ensure that the allocation factors and results of the ECOS are appropriate and apply any rate increase via a means that would ensure a just and reasonable allocation for all classes.

Finally, CEC's ECOS does not address the status of the SC4 Rate Schedule. SC4 applies to customers who would otherwise be served under SC2 or SC3 service classifications if they did not require back-up/supplementary service, with SC4 Rate I applicable to customers who would otherwise be served under SC2, and SC4 Rate II applicable to customers who would otherwise be served under SC3.

CEC 22, p. 10. SC4 customer charge rates were set equal to the proposed SC2 and SC3 customer charges, while the Rate I and Rate II On-Peak and Off-Peak Contract Demand Charges and On-Peak and Off-Peak Usage Charges (excluding the base cost of fuel) were increased by a uniform percentage increase. See CEC 22, p. 10. Unfortunately, the ECOS does not seem to contain any information regarding SC4, including SC4's Rate of Return, thereby suggesting further flaws in terms of the ECOS.

Because only one customer receives service under SC4, this customer is receiving the full impact of this rate increase, even though CEC has provided no basis for such an allocation. Moreover, such an increase would discourage distributed generation, which is considered by CEC to be an alternative thermal source under SC4. Accordingly, CEC should not be permitted to implement an unjust and unreasonable rate increase, especially in light of CEC's failure to provide any substantive basis for this rate allocation.

Due to the benefits that would result from expanding distributed generation in Manhattan, CEC may benefit from having a more flexible SC4 rate schedule modeled after electric standby and backup rates, which recognize that replacement/supplemental needs can be used in a variety of circumstances each with a different cost impact on the utility.

III. Negotiated Fuel Clause

Q. Are you familiar with CEC's proposal to implement a tariff change that would permit the Company to negotiate price options with customers for a portion of fuel costs?

A. Yes, as I understand CEC's proposal, the Company would permit customers to negotiate the fuel costs for a fixed volume portion of their steam requirement. Because some customers are concerned that steam rates are unacceptably volatile due to the impact of changes in fuel costs each month, the customer and the Company could agree to fix the fuel cost component of the Company's charges to the customer for a fixed volume of the customer's steam requirements. See Direct Testimony of Irina Northup, CEC No. 16 (hereinafter, "CEC 16").

Q. Do you have any concerns with this proposal?

A. Overall, I believe the purpose behind the proposal, to mitigate the volatility of fuel costs, serves customers well; however, I disagree with the Company's proposal to implement a "Take or Pay" ("TOP") clause with respect to this proposal. Id. at 17. In other words, if the customer did not use all of the fuel for which it contracted with the Company at the negotiated price, the customer would still be charged for this fuel. The Company's proposal is unclear regarding what actions CEC will be taking to secure the fuel cost (e.g., is the Company buying the fuel or buying a financial product such as a "hedge"). Regardless of CEC's

methodology for securing the fuel cost, a value is retained regardless of whether the customer does not use the required amount of steam. Thus, I think the mechanisms of how this clause will work can be developed in a manner that will allow the TOP to be eliminated. For example, the Company could permit a customer to "cash-out" its unused fuel, thereby providing the customer with financial benefit and the Company with the value of either the fuel or the financial product. Similarly, I recommend that CEC permit customers to aggregate accounts both within and among customers. In other words, the customer would be permitted to utilize this fuel for another account or sell it to another customer, thereby ensuring that the Company receives remittance for the cost of the fuel while not detrimentally impacting the customer.

IV. Elimination of SC6 Rate Schedule

Q. Do you agree with CEC's proposal to eliminate the services offered under Service Classification No. 6 ("SC6")?

A. No, I do not. SC6 allows for transportation service on the Company's system, thereby permitting a customer to transport and deliver steam within the Company's steam service area to the premises of a customer who arranges for the third-party supply of steam. For example, a customer with distributed generation could produce steam at one location and transport it to another location via CEC's

pipes. SC6 serves a useful purpose in providing customers the option to transport steam on CEC's system.

CEC seeks to eliminate SC6 because no customers are currently receiving service under this rate, and CEC believes that an "appropriate cost-based transportation rate is too dependent on site-specific circumstances to lend itself to a uniform rate." CEC 22, p. 30. While no entities are currently receiving service under this rate schedule, maintaining this rate schedule is not harming CEC, but rather, encouraging customers to consider implementing distributed generation, through the options provided by SC6. As trends in distributed generation continue to grow, this option could be used in the future for the sale of excess steam. Moreover, CEC has provided no evidence whatsoever that SC6 should be eliminated because of the Company's concerns regarding whether the rate is too dependent on site-specific circumstances. CEC's SC6 rate was previously approved by the PSC as just and reasonable, and CEC has not provided any evidence rendering this rate unjust or unreasonable. Accordingly, CEC should be required to retain Rate Schedule SC6.

V. Elimination of Steam Variance Incentive/Penalty Mechanism

Q. Are you familiar with CEC's current steam variance incentive/penalty mechanism?

A. Yes. As I understand it, steam base rates currently assume a 10.9% factor for line losses. Fuel costs associated with losses above that amount are collected through the steam fuel adjustment clause; however, if the losses exceed 13.5% in any year, the associated fuel costs must be refunded to customers through the fuel adjustment clause in the following year. CEC does not have to refund avoided fuel costs associated with line losses less than 10.9%. See CEC 11, p. 6.

Q. Do you agree with the Company's proposal to eliminate this mechanism?

A. No. CEC claims that since the inception of the incentive/penalty mechanism, the percentage of line loss has ranged from 13.4% to 17.2%, resulting in the Company only incurring penalties and not receiving any benefits. Id. According to the Company, the steam system's losses are primarily thermal losses that are largely fixed regardless of total sendout. Id. at 7. The Company's claim with respect to this issue, however, fails to provide any basis to completely eliminate the incentive/penalty mechanism. In fact, CEC's only justification for eliminating this mechanism stems from a previously estimated leak survey. See Direct Testimony of Bahman Litkhoui, CEC No. 17 (hereinafter, "CEC 17"), p. 3. CEC should, at the very least, be required to provide a comprehensive, updated line leak study prior to the PSC approving any modifications to the penalty/incentive mechanism. Simply because the Company is not pleased with the percentage agreement it entered into six years ago does not provide a basis for elimination at

this point. Moreover, merely because the Company's customers have benefited from this mechanism, rather than the Company itself, also does not provide a basis for eliminating this mechanism.

In addition, CEC claims that eliminating this mechanism will not limit the Company's incentive to improve line losses, as the Company will seek to remain "competitive." If, however, the past six years of penalties in light of line losses does not result in the Company taking action to improve system line loss, and in light of the fact that many of CEC's customers are "captive" to the steam system, the possibility of CEC seeking to improve line losses without the incentive of such a mechanism remains limited. In order to maintain this penalty/incentive mechanism, while still addressing the concerns of the Company, I would support a reasonable alternative to the current percentage approach. For example, the Company claims that its line losses are in the 4.4 million Mlb/year range; assuming this number is correct, a +/-5% band around this range can be utilized instead of the current approach.

VI. Manufactured Gas Plants

Q. Are you aware of CEC's MGP remediation program?

A. Yes, I understand that CEC formerly manufactured gas and maintained storage holders for manufactured gas at MGP sites located throughout New York. See Direct Testimony of Randolph S. Price, CEC No. 21 (hereinafter, "CEC 21"),

p. 5. CEC is in the process of remediating these sites and is seeking to allocate a portion of these remediation costs to steam customers. Id. at 16. According to CEC, "[e]nvironmental remediation costs are considered to be corporate-wide expense and, as such, are allocated to the Company's three services." See Direct Testimony of Helen L. Lee, CEC No. 1 (hereinafter, "CEC 1"), p. 31.

Q. Do you agree with this allocation?

A. No. The cost of doing business for the natural gas portion of CEC includes various clean-up and remediation costs. CEC has made no demonstration that MPG sites, or the remediation thereof, were costs incurred on behalf of steam service. In the event that the steam division of the Company purchased or continues to purchase natural gas from the gas division of the Company, the cost of this gas includes MGP costs and remediation costs. By including these costs into steam base rates, CEC's steam customers are being charged a second time for remediation costs, as CEC's gas division would have already recouped these costs from CEC steam customers in the cost of gas sold to the CEC steam division. Because of the inappropriateness of this proposal, CEC's request to include MGP remediation costs in base rates must be rejected.

VII. Status of Steam System

Q. Do you have any additional issues you would like to address regarding CEC's base rate filing?

A. Yes. Due to CEC's significant base rate increase request, it is imperative that the PSC consider the impact of this request on customers in light of the service being received from CEC.

For example, I am concerned that the actual rate increase being sought by CEC is much greater than that being claimed by the Company. The benefits from the East River Repowering Project ("ERRP") are used by the Company to mask 50% of the proposed rate increase. I consider that unfortunate. Steam customers have borne 100% of the fuel price risk as evidenced by the Company's extraordinarily high fuel adjustments. In this instance, a project such as the ERRP, which will beneficially impact fuel costs; however, the benefit is being completely eliminated, and, instead an increase in rates well above the benefit is being proposed.

My recent experience in a rate proceeding associated with the Philadelphia District Steam System indicates that the owner/operator of that system was willing to accept a rate increase with a corresponding rate of return well below the levels being sought by the Company. If the result of this proceeding is a lower approved rate increase then the ERRP benefit will be truly felt by the steam customer.

Q. Do you have concerns regarding CEC's steam service?

A. Yes. First, I question whether CEC is adequately addressing reliability concerns on its system. After the August 14, 2003 black-out, reliability should be one of CEC's first and foremost concerns. I understand that steam service during this period was interrupted for over 90 hours, which was well beyond the timeframe for electrical interruptions. Such a period is unacceptable, and measures should be taken to understand both why the length of the interruption occurred and what can be done to insulate steam service from future electrical interruptions. Unfortunately, CEC's filing fails to provide any evidence of any efforts taken by the Company to address and improve reliability on the system. CEC should be required to provide a summary of its reliability efforts to date, as well as a plan for addressing and improving reliability on an on-going basis.

Q. Do you have any other concerns?

A. Yes. I believe CEC should be implementing additional efforts to improve steam revenues. Several proposals in CEC's filing could be detrimental to customers, including the proposed access/demand charges and the removal of Rate Schedule SC6. Rather than implementing proposals that could be detrimental to current customers, CEC should seek ways in which to increase revenues through improved service and rate design.

For example, aside from the $2/Mlb discount offered for steam cooling installed after 2000, CEC has done very little to encourage steam cooling. In fact CEC's proposed tariff shows this discount being eliminated after September 30, 2004, which should certainly not occur.

Because steam cooling helps to contain summer electric rates, which is of value to all CEC customers, the Company should be required to provide evidence of efforts expended to expand steam cooling services. If anything, the steam rates should be made more favorable to encourage steam air conditioning. A declining consumption block rate design would also facilitate such efforts. In addition, CEC's proposal to implement a twelve-month demand ratchet would raise steam cooling prices significantly for those customers that peak in the summer, thereby further undermining customers' efforts to utilize steam cooling.

Moreover, the filing does not suggest that the Company is taking all measures to aggressively increase sales. For example, NYSERDA, under Program Opportunity Notice 835, provides that permanent peak load reductions can be funded to the amount of $475/kW. Such a program can provide a tremendous incentive shift from electric chillers to steam units. Yet, a review of CEC's webpage shows no reference to these programs.

Moreover, if CEC has significant concerns regarding the ability of its steam system to provide the revenue or reduce costs necessary to continue achieving

operational profits, CEC should examine whether selling the system itself or hiring a private corporation to run the system would provide the necessary benefits to ratepayers. For example, Herman Schopman, who was President of Trigen-Philadelphia Energy Corporation ("Trigen") during one of Trigen's base rate proceedings before the PA PUC, noted in his testimony that Trigen had reduced operating, maintenance, and labor by over 20% in nominal dollars from 1987 through 2000.

A viable steam district steam system offers a number of environmental and economic benefits to all citizens not just the steam customers. I believe all means should be exhausted prior to allowing as dramatic a price increase and as drastic a rate restructuring as that proposed by the Company.

Overall, CEC's filing raises various concerns regarding the impact of the proposed modifications on ratepayers. Unless and until CEC is willing to implement mechanisms that will provide benefit to current customers, CEC should not be permitted to move forward on proposals that will only benefit the Company (to the detriment of customers).

Q. Does this conclude your testimony?

A. Yes.

BEFORE THE
NEW YORK PUBLIC SERVICE COMMISSION

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.	:	
	:	CASE 03-S-1672
STEAM RATES	:	

EXHIBIT

OF

DR. LEWIS C. COHEN

ON BEHALF OF THE NEW YORK ENERGY BUYERS FORUM

MARCH 16, 2004

LEWIS C. COHEN - EXPERIENCE SUMMARY

EMPLOYMENT HISTORY

4/91 to Present	**INDEPENDENT CONSULTANT – Recent focus on municipal, institutional and industrial procurement of energy commodities – See attached discussion.**
3/90 to 3/91	**O'BRIEN ENERGY SYSTEMS INCORPORATED** **Philadelphia, PA Vice President**
5/89 to 3/90	**CATALYST THERMAL ENERGY CORPORATION** **New York, NY Vice President**
12/86 to 5/89	**PHILADELPHIA THERMAL ENERGY CORPORATION** **Philadelphia, PA Vice President**
12/85 to 12/86	**MALCOLM PIRNIE, INCORPORATED** **White Plains, NY Project Manager**
10/81 to 10/85	**CSI RESOURCE SYSTEMS** **Boston, MA Senior Associate**
9/80 to 10/81	**MITRE CORPORATION** **Bedford, MA Energy Systems Engineer**
9/79 to 9/80	**NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY** **Albany, NY Senior Associate**
1/78 to 9/79	**NEW YORK STATE ENERGY OFFICE** **Albany, NY Energy Analyst**
12/75 to 7/77	**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY** **Washington, DC Environmental Engineer**

EDUCATION

5/79 Ph.D. Rensselaer Polytechnic Institute
5/76 M.S. George Washington University School of Engineering and Applied Science
6/74 B. S. State University of New York at Albany

ATTACHMENT TO L. COHEN EXPERIENCE PROFILE

For the last 6 years, Dr Cohen has focused on assisting a diverse group of end-users in coping with and taking advantage of the changes resulting from the deregulation of energy. Dr Cohen has procured electricity, natural gas, oil, and energy services (i.e. conservation and energy efficiency improvements). Dr Cohen has extensive experience in the Mid-Atlantic and northeast regions.

Dr Cohen's clients include the Jefferson Health System, the largest health care network in the Delaware Valley and the Christiana Care Healthcare System in Delaware. Furthermore, Dr Cohen represents Utility Solutions, Inc ("USI"). In Pennsylvania, USI assists a number of groups in aggregating the purchasing power of their members. These groups include over 100 municipal members of the Municipal Utility Alliance (MUA) (established by the Pennsylvania League of Cities), approximately 40 industrial members of the Pennsylvania Foundrymen's Association (PFA) and fifty colleges and university members of the Association of Independent Colleges and Universities of Pennsylvania (AICUP).

In New York, Dr Cohen and his associates, in conjunction with Tompkins and Tioga Counties, have structured an upstate energy alliance representing over five counties as well as private entities. The New York Public Service recently held out this program as among the finest in New York State. Other clients in New York include one dozen chambers of commerce, numerous industrial customers, and non-profit nursing and elder care institutions, representing 300 facilities in every utility territory in the state.