BEFORE THE
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of

Orange and Rockland Utilities, Inc.

Cases 18-E-0067 and 18-G-0068

May 2018

Prepared Testimony of:

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Utility Auditor II

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State of New York
Department of Public Service
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1 Q. Please state your name, employer and business
2 address.
3 A. My name is Jerry Shang. I am employed by the
4 New York State Department of Public Service,
5 otherwise referred to as the Department. My
6 business address is Three Empire State Plaza,
7 Albany, New York 12223.
8 Q. What is your position in the Department?
9 A. I am employed as a Public Utilities Auditor II
10 in the Office of Accounting, Audits and Finance.
11 Q. Please describe your educational background and
12 professional experience.
13 A. I graduated from China Anhui Institute of
14 Finance and Trade in 1993 with a Bachelor's
15 Degree of Business Administration in Accounting.
16 In 2006, I received my Master of Science degree
17 in Accounting from the State University of New
18 York (SUNY) Albany. After I graduated from SUNY
19 Albany, I was employed by Ernst & Young LLP at
20 its Stamford, Connecticut office from June 2006
21 to March 2008 as an audit associate. In May
22 2008, I joined the Department of Public Service
23 as a Senior Auditor and advanced to my present
24 position.

1 Q. Mr. Shang, have you previously testified before
2 the Commission?
3 A. Yes. I submitted testimony in Orange and
4 Rockland Utilities, Inc., otherwise referred to
5 as O&R or the Company, rate proceedings in Cases
6 11-E-0408, 10-E-0362 and 08-G-1398. I also
7 submitted testimony in Consolidated Edison
8 Company of New York, Inc., or Con Edison, rate
9 proceedings in Cases 16-E-0060 and 16-G-0061,
10 13-E-0030, 13-G-0031 and 13-S-0032, 09-E-0428
11 and 09-G-0795; and Central Hudson Gas & Electric
12 Corporation rate proceedings in Cases 14-E-0318
13 and 14-G-0319.
14 Q. What is the purpose of your testimony?
15 A. My testimony addresses the Company's proposals
16 regarding employee health insurance expense and
17 Federal Income Tax, or FIT, expense. For FIT
18 expense, my testimony will include the impact of
19 2017 Tax Cut and Jobs Act, which I will refer to
20 as the 2017 Tax Act, my proposal regarding the
21 amortization of the 2018 deferred liability
22 associated with the 2017 Tax Act, the Company's
23 presentation of its FIT flow through items, a
24 correction to the Company's income tax

1 calculation and an alleged income tax accounting
2 error related to Cost of Removal, or COR.
3 Q. Are you sponsoring any exhibits in support of
4 your testimony?
5 A. Yes. I am sponsoring two exhibits.
6 Exhibit__(HJS-1) includes the Company's
7 responses to Staff Information Requests, or IRs,
8 to which I refer, or otherwise rely upon, in my
9 testimony. Exhibit__(HJS-2) includes my
10 adjustment to the Company's Rate Year employee
11 health insurance expense.

12 Employee Welfare Expenses

13 Q. Please explain the Company's projection for
14 employee welfare expense for the 12 months
15 ending December 31, 2019, or the Rate Year.
16 A. The Company's employee welfare expense includes
17 health insurance, life insurance and other
18 benefits costs, such as those associated with
19 its thrift savings plan and tuition
20 reimbursement. These costs are reduced by the
21 amounts that are capitalized, contributed by
22 employees or charged to affiliates to arrive at
23 total employee welfare expense. The Company's
24 forecast of employee welfare expenses for the

1 Rate Year totals $10.58 million for electric and
2 $5.00 million for gas, and is included in
3 Schedule 6 of Exhibit__(AP-E3) and Exhibit__(AP-
4 G3), respectively. In O&R’s filings, the
5 Company combined its health insurance and life
6 insurance costs into one-line item for the
7 period of October 1, 2016 through September 30,
8 2017, or the historic test year, and the Rate
9 Year. In its response to IR DPS-338, which is
10 included in Exhibit__(HJS-1), the Company
11 provided a breakdown of this amount between
12 health insurance and life insurance.
13 Q. Do you recommend an adjustment to any of these
14 costs?
15 A. Yes. I recommend an adjustment related to
16 health insurance costs. Specifically, I
17 recommend using the latest known health
18 insurance premium, escalated by the gross
19 domestic product, or GDP, deflator to forecast
20 the Rate Year health insurance expense.
21 Q. Describe how the Company forecasts its Rate Year
22 health insurance costs.
23 A. The starting point for O&R’s forecast is the
24 Company’s total historic test year ,or twelve

1 months ending September 30,2017, amount of
2 health insurance costs. The Company then made
3 normalization adjustments to reflect dividends
4 or premium refunds received within the historic
5 test year. From there, the Company projected
6 the Rate Year health insurance costs by using
7 plan-specific trend factors and premium rates
8 provided by its various insurance carriers for
9 2018 through 2019. Forecasted this way, the
10 Company's Rate Year total health care cost has
11 increased by approximately 20.83% from the
12 historic test year level, or 9.3% annually.
13 This calculation is shown in Exhibit__(HJS-2).
14 Q. What is the Company's rationale for using plan
15 specific inflators, instead of the GDP deflator,
16 to forecast its Rate Year health insurance
17 costs?
18 A. On page 71 through 86 of O&R's Compensation and
19 Benefits Panel's testimony, the Company
20 testified that the growth of its health care
21 costs is driven by various factors that are
22 different from those that affect the GDP
23 deflator. According to the Company, increases
24 in health care costs are driven by the use of

1 high-cost medical procedures and specialty
2 prescription drug, expensive diagnostic studies,
3 large catastrophic claims, employee demographic
4 changes, the volume and mix of health care
5 service and the impact of legislation changes,
6 while increases in the GDP deflator are driven
7 largely by inflation-related increases in the
8 unit costs of various products. The Company
9 states that these drivers have caused its actual
10 health care premiums to increase 7.7% annually
11 over the past five years, i.e. 2013 through
12 2017, which is greater than the GDP deflator
13 increases of approximately two percent over the
14 same period. The Company further estimates that
15 its health care premium will continue to
16 increase by approximately 6.5% per year from
17 historic test year through Rate Year and beyond.
18 Q. Do you agree with the Company's rationale?
19 A. No, I do not. I recommend using the GDP
20 deflator as an escalator to forecast health care
21 costs.
22 Q. Please explain.
23 A. First, the Company's health care costs are not
24 unique business costs that are beyond the

1 Company's control; rather, they are normal
2 business cost elements that can be effectively
3 managed by the Company. Second, the GDP
4 inflation index reflects a basket of goods and
5 services, including health care services;
6 therefore, it is reasonable to use the GDP
7 deflator to escalate health care costs.
8 Q. What is the Commission's policy on forecasting
9 health care costs?
10 A. The Commission's long-standing practice is to
11 escalate health care costs by the general
12 inflation rate. This policy was first
13 established in Commission Opinion No. 84-27,
14 issued October 12, 1986, and reaffirmed in
15 numerous subsequent Commission decisions. For
16 example, in the rate filing of the Company's
17 affiliate, Con Edison, in Case 07-E-0523, the
18 Company forecast its health care costs using
19 projected growth trend rates that were higher
20 than the GDP. The Commission, in its Order
21 Establishing Rates for Electric Service for
22 Consolidated Edison Company of New York, Inc.,
23 issued March 25, 2008, denied Con Edison's use
24 of the growth trend rates and adopted Staff's

1 recommendation to use the GDP deflator to
2 forecast these costs. In that Order, the
3 Commission acknowledged that the cost of medical
4 care expense and many other categories are
5 expected to increase greater than general
6 inflation; however, the Commission noted that
7 utilities are expected to manage the increases
8 in costs in totality and to keep those costs, as
9 best it can, to the general inflation rate.
10 Q. Is there a more recent ruling where the
11 Commission reaffirmed its position and used the
12 general inflation rate to forecast employee
13 benefits expenses?
14 A. Yes, in the Order Establishing Rates, issued
15 June 26, 2014, in Case 13-W-0295, United Water
16 New York, Inc., or UWNY, the Commission
17 reiterated and elaborated its position on this
18 issue. Specifically, the Commission stated,
19 "What UWNY and the R[ecommended] D[ecision] have
20 failed to recognize is that in the generic
21 inflation pool, by its nature, some costs are
22 fully expected to increase faster than general
23 inflation rates with others are not. If medical
24 expense falls into the former category, as

1 experience indicates according to UWNY, that
2 does not alter the fact that the generic
3 inflation rate is an average of inflationary and
4 deflationary changes in the prices of all the
5 various goods and services in the pool. Thus, a
6 deviation between the increase in a single
7 pooled cost item such as medical expense,
8 relative to the average increase, does not
9 justify removing that item from the pool in an
10 attempt to predict it separately. On the
11 contrary, pooling of diverse expenses into a
12 single inflation forecast tends to minimize the
13 forecasting errors--and, as noted in the Con
14 Edison decision, the waste of time and
15 resources--that would result from attempting to
16 predict each expense item separately."
17 Q. Please explain how you calculated your forecast
18 of Rate Year health insurance expense.
19 A. For employees who are covered under plans with
20 health insurance providers, I started the Rate
21 Year forecast with the latest known actual
22 health insurance premiums and the number of
23 participants as of January 2018, which was
24 provided in the Company's response to IR DPS-

1 327, included in Exhibit__(HJS-1), and then
2 escalated the latest known 2018 premium using
3 the GDP deflator to arrive at my Rate Year
4 forecast for this portion of the cost. For
5 employees who are covered by O&R's self-insured
6 plans, I started the Rate Year forecast with the
7 Company's actual claim costs in calendar year
8 2017, as provided in the Company's response to
9 IR DPS-327, and then escalated these actual
10 claim costs into the Rate Year to derive my
11 forecast of this portion of the costs. I then
12 applied the labor capitalization rate of 23% to
13 arrive at a Rate Year health insurance expense
14 forecast of $10.38 million for electric and
15 $4.29 million for gas.
16 Q. What is your adjustment related to health
17 insurance expense?
18 A. My recommended forecast for the Company's Rate
19 Year health insurance expense results in a
20 reduction to the Company's total employee
21 welfare expense of $1.61 million, or $0.74
22 million electric and $0.88 million gas.
23 Exhibit__(HJS-2) provides the details of my
24 calculation and adjustments.

1 Income Tax Expense

2 Q. What issues will you discuss regarding the
3 Company's Rate Year Income Tax expense forecast?
4 A. I first discuss the impact of the 2017 Tax Act
5 to the Company's income tax forecast. Next, I
6 recommend an adjustment related to the Company's
7 proposed amortization period for the deferred
8 tax benefits the Company accrued during 2018 due
9 to the 2017 Tax Act. Then, I address the
10 Company's presentation changes to its FIT flow
11 through calculations. Next, I discuss an error
12 in the Company's FIT expense calculation. Last,
13 I discuss an alleged income tax accounting error
14 issue related to the Company's COR expense, and
15 my adjustment related to the Company's
16 correction of this alleged error.
17 Q. First, please briefly explain the 2017 Tax Act.
18 A. On December 22, 2017, the 2017 Tax Act was
19 signed into law, which resulted in significant
20 changes to federal income taxation for large
21 public utilities. The major changes resulting
22 from the 2017 Tax Act include a reduction of the
23 federal income tax rate from 35% to 21% starting
24 January 1, 2018, and the revocation of bonus

1 depreciation for utilities starting September
2 27, 2017. Further, as a result of the 2017 Tax
3 Act, utilities will accrue excess deferred
4 federal income taxes, or EDFIT, and use
5 normalization rules to account for and refund
6 tax benefits.
7 Q. Has the Commission taken any action regarding
8 the 2017 Tax Act?
9 A. Yes, on December 29, 2017, the Commission issued
10 the Order Instituting Proceeding in Case 17-M-
11 0815, which directed Department Staff to study
12 the implications of the 2017 Tax Act and to file
13 recommendations on how to implement the effects
14 of the change. On March 29, 2018, Staff filed a
15 whitepaper with its proposals for accounting and
16 ratemaking treatments related to the changes
17 resulting from the 2017 Tax Act. Staff
18 recommended that the net tax benefits resulting
19 from the reduction in income tax expense be
20 preserved for ratepayers in their entirety and
21 that utilities defer the net impact of the
22 changes resulting from the 2017 Tax Act until
23 such time that the benefits can be fully passed
24 on to customers.

1 Q. Has the Company reflected the impact of 2017 Tax
2 Act in its current filings?
3 A. Yes, as discussed on pages 5 and 6 of O&R's
4 Income Tax Panel's testimony, the Company has
5 reflected the lower income tax rate of 21% in
6 the calculation of its Rate Year FIT expense for
7 electric and gas services. Specifically, O&R's
8 FIT expense is lowered by $12.00 million for
9 electric and $6.00 million for gas as a result
10 of the reduced FIT rate. Also, in its Rate Year
11 deferred tax forecast, the Company included a
12 net deduction of $2.42 million for electric and
13 $1.07 million for gas to reflect the reversal of
14 EDFIT based on the Company's proposed refunding
15 of the estimated excess tax benefits. This
16 deduction reduced electric and gas revenue
17 requirements by $3.27 million and $1.44 million,
18 respectively.
19 Q. Please explain the nature of EDFIT.
20 A. Under Internal Revenue Service, or IRS,
21 normalization rules, a utility is required to
22 accrue deferred income tax to account for
23 book/tax temporary timing differences. In
24 ratemaking, a utility recovers in rates the

1 income tax expense, both current and deferred,
2 calculated at the statutory tax rate, for
3 example 35%. Because of these normalization
4 rules, in early years, the amount of tax paid to
5 the IRS by a utility is generally less than the
6 tax it collects from customers. These
7 differences are kept in a reserve known as
8 accumulated deferred federal income tax, or
9 ADFIT. If the statutory income tax rate remains
10 the same in the future years, then over time the
11 process is reversed; the cumulative tax
12 recovered from ratepayers, and paid by a utility
13 is generally equal over the course of an asset's
14 life. However, when the tax rate is lowered, as
15 in the case of the 2017 Tax Act where the tax
16 rate decreased from 35% to 21%, this 14% rate
17 variance will not be paid to the IRS, thus
18 creating EDFIT. In other words, EDFIT
19 represents the excess taxes the utility
20 collected at the higher tax rate in earlier
21 years that does not need to be paid to the
22 federal government in the future as a result of
23 the change in tax rate. It is a net regulatory
24 liability that must be refunded to ratepayers.

1 Q. What is protected and unprotected EDFIT?
2 A. EDFIT can be divided into protected EDFIT and
3 unprotected EDFIT, depending on the underlying
4 book/tax temporary differences that created the
5 excess reserves. EDFIT that is driven by
6 accelerated depreciation is "protected" by IRS
7 normalization rules, thus called protected
8 EDFIT. EDFIT that is created by other book/tax
9 timing differences is unprotected EDFIT.
10 Q. Please explain the IRS regulations for
11 amortizing or reversing the EDFIT.
12 A. The IRS regulations provide that the
13 amortization or reversal of the protected EDFIT
14 cannot be quicker than the remaining average
15 book lives of the assets that gave rise to the
16 EDFIT. However, for the unprotected portion of
17 EDFIT, the IRS leaves the jurisdictional
18 regulator to decide the disposition of these tax
19 benefits.
20 Q. How much EDFIT does O&R have as of December 31,
21 2017?
22 A. According to the Income Tax Panel's testimony,
23 the Company estimates that it has a net EDFIT
24 regulatory liability balance of $64 million for

1 electric and $52 million for gas. These
2 balances include EDFIT associated with protected
3 and unprotected property related assets, as well
4 as non-property related assets
5 Q. What is the Company's proposal for refunding
6 these net regulatory liability balances to
7 customers?
8 A. The Company proposes to pass back all of these
9 tax benefits over the average remaining book
10 lives of its underlying plant assets, which is
11 46 years for electric and 53 years for gas.
12 Under this proposal, the Rate Year annual
13 amortization, or reversal of the EDFIT balance,
14 is $2.42 million for electric and $1.07 million
15 for gas. These amounts are grossed up for
16 revenue requirement effect of $3.28 million and
17 $1.45 million for electric and gas,
18 respectively.
19 Q. Do you agree with the Company's proposal for
20 refunding the EDFIT related tax benefits?
21 A. Yes.
22 Q. Please explain why.
23 A. First, based on the above discussion, the
24 Company's proposed refunding of the EDFIT tax

1 benefits complies with applicable IRS
2 regulations. Second, the timeframe within which
3 the Company proposes to pass back the tax
4 benefits reflects the matching principle,
5 wherein the unwinding of the accumulated EDFIT
6 tax benefits matches the remaining life of the
7 underlying assets that generate such tax
8 benefits. Third, from a ratemaking prospective,
9 the Company's proposal stabilizes customer rates
10 and avoids inter-generational inequities,
11 meaning that the EDFIT tax benefits will be
12 passed back to the same ratepayers who paid for
13 the plant assets which gave rise to those tax
14 benefits.
15 Q. Does the Company's current filing reflect any
16 other impacts associated with the 2017 Tax Act?
17 A. Yes. Since the starting date of the reduced tax
18 rate, January 1, 2018, is before the effective
19 date of O&R's proposed new Rate Year, January 1,
20 2019, the Company deferred the tax benefits
21 accrued during this linking period, or the
22 twelve months ending December 31, 2018. Per the
23 Company's response to DPS-358, included in
24 Exhibit__(HJS-1), the estimated regulatory

1 liability deferral for the linking period is
2 $12.54 million for electric and $7.13 million
3 for gas. O&R proposes to amortize this balance
4 over the average remaining life of the
5 underlying electric and gas plant asset, i.e. 53
6 years for electric and 46 years for gas,
7 resulting in an annual amortization expense
8 reduction of $0.27 million for electric and
9 $0.14 million for gas.

10 Q. Do you agree with the Company’s proposal on this
11 issue?

12 A. No.

13 Q. Please explain why you do not support O&R’s
14 proposal.

15 A. The deferred benefits accrued during the 12
16 months ending December 31, 2018, are the result
17 of the one-time event of the 2017 Tax Act. The
18 deferral balances are not supported by the
19 underlying electric and gas plant assets;
20 therefore, there is no reason to link the
21 amortization period of the deferral balances to
22 the remaining life of electric and plant assets.
23 Moreover, amortizing the deferral balances over
24 an extended period of time will cause an

1 intergenerational inequity issue, as the
2 ratepayers who funded these excess tax benefits
3 over the course of 2018 would have to wait 40 to
4 50 years to have those benefits returned.
5 A. What is your recommendation for amortizing these
6 deferred income tax benefits accrued during
7 2018?
8 Q. I recommend amortizing these deferred tax
9 benefit balances over a five-year period. As
10 shown in Schedule 4, Exhibit__(AP-E3) and
11 Exhibit__(AP-G3), the Company typically
12 amortizes its deferrals over a period of three
13 or five years. My recommended amortization
14 period of five years is consistent with Company
15 practice, reduces revenue requirement, which
16 provides rate relief to customers, and still
17 leaves some of the deferral balance which can be
18 used to mitigate future rate increases.
19 Q. What is the impact of your recommendation on the
20 Rate Year amortization expense?
21 A. My recommendation increases the Company’s
22 proposed annual amortization expense from $0.27
23 million to $2.51 million for electric, and from
24 $0.14 million to $1.43 million for gas, or an

1 annual increase of $2.24 million for electric,
2 and $1.29 million for gas. As this deferral
3 represents monies owed to customers, this
4 amortization reduces the revenue requirements.
5 Tracking my adjustment to the annual
6 amortization level of this 2018 excess tax
7 benefits liability, I also reflect a rate base
8 adjustment to the unamortized regulatory
9 liability balance. My adjustment increases the
10 Company's rate base balance by $0.82 million for
11 electric and $0.48 million for gas.
12 Q. Please discuss your concern regarding the
13 Company's change of presentation for its FIT
14 method/life flow-through calculation.
15 A. As shown in Exhibit__(AP-E3) and Exhibit__(AP-
16 G3), Schedule 7 of O&R's current rate filings,
17 the Company only reflected the net result of the
18 method/life flow through calculations for its
19 book and tax deprecation, which is a departure
20 from the Company's past practice. In its
21 previous filings, for example in Cases 14-E-0494
22 and 11-E-0408, the Company separately listed the
23 schedule M addback items, such as book
24 depreciation, and schedule M deduction items,

1 such as tax depreciation.
2 Q. Does this presentation issue affect total income
3 tax expense or revenue requirement?
4 A. No. The change of method/life flow-through
5 presentation does not change the Company’s total
6 Rate Year FIT expense forecast; therefore, there
7 are no changes to the revenue requirements.
8 Q. Why is this change an issue if there is not an
9 impact on tax expense or the revenue
10 requirements?
11 A. The Company’s change in presentation results in
12 less transparency in its rate filings. The
13 reader cannot see the various components of book
14 and tax depreciation for method/life flow
15 through calculation and therefore cannot
16 determine if the amount is reasonable.
17 Q. What is your recommendation on this issue?
18 A. I have reclassified the Company’s presentation/
19 calculation of the method/life depreciation by
20 listing out separate book and tax depreciation
21 based on data provided in the Company’s response
22 to DPS-653, included in Exhibit__(HJS-1), which
23 contains the corrected result of Schedule M
24 items for its April 13, 2018 Preliminary Update.

1 For rate filing transparency considerations, I
2 recommend that the Commission require the
3 Company to provide more detailed plant related
4 flow-through calculation information in its
5 future rate filings, including Schedule M
6 addback and deduction items. The Schedule M
7 addback items should include such detail as book
8 depreciation calculated at existing and proposed
9 depreciation rates respectively, and accrued COR
10 book deprecation. The Schedule M deduction
11 items should include such detail as the flow
12 through tax depreciation calculated at existing
13 and proposed depreciation rates respectively.
14 Q. Please discuss your fourth issue related to
15 corrections to the Company's FIT expense
16 calculation.
17 A. In its April 13, 2018 preliminary update, the
18 Company inadvertently reflected the wrong sign
19 for its state income tax expense deduction in
20 its electric FIT calculation. I made an
21 adjustment of $1.992 million to the state income
22 tax expense deduction to correct for this error.
23 Q. Does the Company agree with this correction?
24 A. Yes, in its response to IR DPS-647, included in

1 Exhibit__(HJS-1), the Company agreed with my
2 correction.
3 Q. Please explain your last issue with the
4 Company's income tax expense, the alleged error
5 associated with O&R's income tax accounting for
6 COR.
7 A. In O&R's update/rebuttal testimony filed on
8 April 4, 2015, in Cases 14-E-0493 and 14-G-0494,
9 O&R testified that it had discovered a historic
10 error wherein the Company had inadvertently
11 reflected tax benefits associated with the plant
12 retirement-related COR twice in the accounting
13 for income taxes. According to the Company,
14 this error resulted in O&R understating its
15 prior customer rates by flowing through
16 overstated tax benefits associated with COR.
17 The Company explained that it booked a
18 regulatory asset to account for the accumulated
19 tax benefits that had been flowed through to
20 customers in the Company's past rates.
21 Q. What is your concern in the current proceedings
22 regarding this alleged error?
23 A. The Company's current filings did not include
24 any discussion on this issue, nor indicate any

1 specific amounts reflected in the revenue
2 requirements associated with the correction of
3 the alleged error. However, the regulatory
4 asset the Company booked to record the alleged
5 error will automatically reverse, producing
6 changes to the Company's actual income tax
7 expense during the proposed rate plan.
8 Therefore, I am concerned that the revenue
9 requirements may include the effects of the
10 corrections of the alleged error.
11 Q. What is the current balance of the regulatory
12 asset associated with this error?
13 A. I do not know. I asked the Company to provide
14 this information in IR DPS-274, included in
15 Exhibit__(HJS-1); however, the Company did not
16 provide this information as requested.
17 Q. Why not?
18 A. In O&R's two supplemental responses to DPS-274,
19 included in Exhibit__(HJS-1), the Company stated
20 that calculating the portion of the regulatory
21 asset balance associated with the COR error is a
22 time-intensive and difficult task, given the
23 large volume of data that would need to be
24 reviewed. The Company further explained that

1 the level of detail and scope of review required
2 to provide the information requested is outside
3 the scope of inquiry characteristic of a rate
4 case.
5 Q. Has this issue arisen in any other proceedings?
6 A. Yes, in Con Edison's recent rate filings, Cases
7 15-E-0050, 16-E-0060 and 16-G-0061, this same
8 issue was raised. As O&R and Con Edison are
9 both subsidiaries of the same parent company,
10 Consolidated Edison Inc. (CEI), the two
11 companies share the same income tax accounting
12 procedures, and use the same income tax software
13 systems, both old and new, to calculate the
14 income tax expense; therefore, the nature of the
15 alleged error is the same for these two
16 companies.
17 Q. Has this Commission taken any action regarding
18 this alleged COR error issue?
19 A. Yes, in the January 11, 2018 Order Approving and
20 Issuing the Request for Proposals Seeking a
21 Third-Party Consultant to Perform Audits to
22 Investigate the Income Tax Accounting of Certain
23 New York State Utilities, in Case 18-M-0013, the
24 Commission instituted two operations audits to

1 investigate this issue. On April 23, 2018, the
2 Commission chose a third-party consultant,
3 Schumaker & Company, to audit this issue for
4 certain New York State utilities, including O&R
5 and Con Edison.
6 Q. What is the purpose of these operations audits?
7 A. The Commission directed the consultant to
8 evaluate the Company's current and legacy income
9 tax accounting systems; verify the existence of
10 the alleged COR error in the Company's previous
11 income tax accountings and past rates; determine
12 whether ratepayers received the benefit of the
13 lower income tax expense in rates resulting from
14 the alleged error; determine if the Commission
15 is obligated to provide retroactive recovery of
16 the effect of alleged error; recommend how much
17 of the regulatory asset resulting from the
18 alleged error should be recovered from
19 ratepayers; and determine the proper regulatory
20 assets/liability balance and rate base ADFIT for
21 correcting the error.
22 Q. What is your recommendation with respect to this
23 issue?
24 A. The Commission has instituted a proceeding to

1 address this COR issue and the Company will be
2 bound by any Commission decision in that case.
3 Therefore, at this time, I have not made any
4 adjustments to the revenue requirements
5 associated with the alleged COR error. In the
6 event that the operations audit is completed, or
7 there is a relevant Commission Order in the
8 aforementioned case, during the pendency of the
9 instant rate proceedings, the Company should be
10 required to update the record accordingly.
11 However, if the audit is not completed by the
12 time new rates are set within the current
13 proceedings, I recommend that any amounts of the
14 alleged COR error embedded in the Company's cost
15 of service forecast in the current rate filings
16 be reconciled to any findings in that
17 proceeding.

18 Accumulated Deferred Income Taxes -
19 ADR/ACRS/MACRS Depreciation Tax Deductions
20 (Electric and Gas)

21 Q. Do you propose any adjustments to the Company's
22 forecasts of Rate Year accumulated deferred
23 income taxes related to Asset Depreciation
24 Rage(ADR)/Accelerated Cost Recovery System

1 (ACRS)/Modified Accelerated Cost Recovery System
2 (MACRS) Depreciation Tax Deductions?
3 A. Yes. Tracking the recommended changes of the
4 Staff Electric Infrastructure Operations Panel
5 and Staff Gas Infrastructure Operations Panel to
6 the Company's forecasts of electric and gas
7 depreciation expense and plant additions for the
8 Rate Year, I recommend increasing the Company's
9 Rate Year forecast, which decreases rate base,
10 for electric and gas by $554,000 million and
11 $230,000 million, respectively, to account for
12 the associated change in deferred taxes.
13 Q. Does this conclude your testimony at this time?
14 A. Yes.