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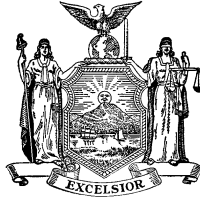
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Re: Case 13-E-0030, 13-G-0031, 13-S-0032 – Con Edison Evidentiary Hearing - January 14, 2014

**** Please note this is a Preliminary transcript, subject to later edits when reviewed by the Administrative Law Judges assigned to the cases.**

1 - - - - - x
2 Proceeding on Motion of the Commission CASE 13-E-0030
3 as to the Rates, Charges, Rules and Regulations
4 of Consolidated Edison Company of New York, Inc.
5 for Electric Service

6 Proceeding on Motion of the Commission CASE 13-G-0031
7 as to the Rates, Charges, Rules and Regulations
8 of Consolidated Edison Company of New York, Inc.
9 for Gas Service

10 Proceeding on Motion of the Commission CASE 13-S-0032
11 as to the Rates, Charges, Rules and Regulations
12 of Consolidated Edison Company of New York, Inc.
13 for Steam Service

14 - - - - - x

15 90 Church Street - Fourth Floor
16 New York, New York

17 January 14, 2014
18 10:32 a.m. - 2:16 p.m.

19 B E F O R E: JUDGE PAUL AGRESTA and
20 JUDGE JULIA SMEAD BIELAWSKI

21
22
23
24 Reported By: Holly Van Pelt

25 LEX #102127

1
2 JUDGE PAUL AGRESTA: Okay, we're on the record. I call
3 case 13-E-0030, 13-G-0031 and 13-S-0032.

4 Can you hear me?

5 These are the Con Ed, the pending Con Ed rate cases for
6 electric, gas and steam. My name is Administrative Law Judge
7 Paul Agresta. With me today is Administrative Law Judge
8 Julia Smead Bielawski.

9 Today's evidentiary hearing is pursuant to a notice that
10 was issued on December 31, 2013, and I'd like to note for the
11 record that in the joint proposal that was submitted, the
12 parties submitting a joint proposal are proposing to address
13 issues that were pending in three other cases as well as the
14 ones that I previously mentioned. Those are cases 13-M-0376,
15 which was a petition of Con Ed for approval of a property tax
16 refund distribution, case 13-M-0040, which was a petition of
17 Con Ed for approval of accounting treatment of the proceeds of
18 the proposed sale of property, and case 49-E-0428, which was a
19 former Con Edison electric rate case. So there are some
20 overlapping issues from those cases that are also gonna be the
21 subject matter of today's hearings.

22 At this time I'd like to take the appearances of the
23 parties, starting with Con Edison and staff and then going
24 around the room. For those of you that are speaking, you're
25 gonna have to come forward to a microphone and also give your

1 names for the court reporter.

2 So let's begin with Con Edison.

3 MR. MARC RICHTER: Good morning, Your Honor. My name is
4 Mar Richter, R-I-C-H-T-E-R, on behalf of consolidated Edison
5 Company of New York, Inc. I'd also like to enter the
6 appearances of Ms. Kerri Kirschbaum, Ms. Anna Chacko, Ms. Mary
7 Kraveske, Mr. Jack Carley and Mr. Martin Heslin. I'm sorry, and
8 Mr. Enver Acevedo and Mr. Thomas Riozzi.

9 MR. STEVEN KRAMER: Your Honors, for the Department of
10 Public Service staff, my name is Steven Kramer, and there is
11 also with us Brian Ossias, Brandon Goodrich and Alan Michaels.

12 MR. KEVIN LANG: Your Honor, for The City of New York,
13 Kevin Lang and Michael Delaney.

14 MR. THOMAS RUDEBUSCH: Your Honors, for the County of
15 Westchester, my name is Thomas Rudebusch, R-U-D-E-B-U-S-C-H,
16 from the law firm of Duncan, Weinberg, Genzer and Pembroke, and
17 with me is Tim Carey, C-A-R-E-Y.

18 MR. GERALD NORLANDER: Your Honor, my name is
19 Gerald Norlander. I'm the attorney for the Public Utility Law
20 Project of New York. Thank you.

21 MR. GEORGE DIAMANTOPOULOS: Good morning, Your Honor. My
22 name is George Diamantopoulos, with the law firm of Seham,
23 Seham, Meltz and Petersen. That's D-I-A-M-A-N-T-O-P-O-L-O-U-S,
24 and I represent the New York Energy Consumers Council.

25 JUDGE PAUL AGRESTA: I think it would be helpful for the

1 people that are giving appearances, if you have business cards,
2 to bring them up to the court reporter at some point today.

3 MR. USHER FOGEL: On behalf of the Retail Energy Supply
4 Association, Usher Fogel, U-S-H-E-R, F-O-G-E-L.

5 MR. JOHN DOWLING: And John Dowling for Consumer Power
6 Advocates.

7 MS. ELIZABETH STEIN: Elizabeth Stein, Environmental
8 Defense Fund.

9 JUDGE PAUL AGRESTA: Are there any other active parties
10 present today? Okay, thank you.

11 Before we begin, are there any matters that anyone would
12 like to bring up at this point? Mr. Richter, I believe you had
13 something.

14 MR. MARC RICHTER: Thank you, Your Honor.

15 The company requests the opportunity to make a motion at
16 the beginning of this hearing, a motion to strike two portions
17 of the testimony of PULP witness, Miss Nancy Brockway. We ask
18 for the opportunity to make that motion now rather than later
19 during the course of the day since depending on whether or not
20 Your Honors rule on that motion today and depending upon the
21 nature of that ruling, it could bear on the scope of examination
22 not only of the PULP witness, the PULP witnesses, but also the
23 -- the staff and the company panels.

24 JUDGE PAUL AGRESTA: Okay. Does anyone want to be heard on
25 the procedural question?

1 MR. GERALD NORLANDER: This is Gerald Norlander, for the
2 Public Utility Law Project, and with regard to the timing of the
3 motion, I see no reason why it can't wait until we're about to
4 present our witnesses. I don't see it as an effective scope of
5 cross of staff and company witnesses.

6 MR. MARC RICHTER: So maybe to clarify, you know, further,
7 Your Honor, there's two portions of the PULP testimony. One is
8 relating to a HEPFA compliance performance metric and one
9 relating to a new proposal with respect to how low income
10 customer rates may be designed, and without having the
11 opportunity to make that motion to strike at this point in time
12 and potentially getting a ruling from Your Honors striking that
13 testimony, it does bear on the extent to which it may be
14 appropriate for Your Honors, Mr. Norlander, maybe staff or
15 company counsel to ask questions of the company and staff panels
16 on those topics, which may be avoided or avoidable if that
17 motion is first heard and potentially ruled on.

18 JUDGE PAUL AGRESTA: Let me take a minute with my fellow
19 judge.

20 (Whereupon, a brief recess was taken.)

21 JUDGE PAUL AGRESTA: Okay, we are very unlikely to rule on
22 the motion right away, but we have no objection to having you
23 make your motion and getting that part over with. We will
24 likely give PULP an opportunity to respond to the motion that's
25 more than just a quick, oral response, but why don't you proceed

1 and at least state your motion for the record.

2 MR. MARC RICHTER: I appreciate that, Your Honor.

3 So the company moves to strike two portions of the
4 testimony of Nancy Brockway. In the company's view
5 Miss Brockway's supplemental testimony goes well beyond the
6 proper scope of testimony in opposition to the joint proposal.
7 The joint proposal presents a reasonable resolution of the
8 matters at issue in these proceedings. Miss Brockway addresses
9 new matters not in issue in this proceeding, not rated by the
10 joint proposal and for which parties have no reasonable
11 opportunity to respond.

12 A small bit of background, the company made comprehensive
13 rate filings in this proceeding. The parties had full and
14 multiple opportunities to address both issues raised directly by
15 the company's filing and matters not addressed in the company's
16 filings in direct testimony, in rebuttal testimony, during the
17 course of the hearing and in briefs, both initial and reply.
18 Many parties took full advantage of this opportunity, including
19 PULP. Settlement discussions considered all such proposals.
20 Absent settlement discussion no party would have the right or
21 opportunity to raise new issues or to make new proposals, and
22 the submittal of a joint proposal provides no basis for doing
23 so. The two issues for which we propose the testimony be
24 stricken is PULP's proposal for a HEFPA compliance performance
25 metric and their proposal for an across-the-board percentage

1 reduction to low income customer bills. With respect to HEFPA
2 compliance, PULP argues that HEFPA performance metric is
3 required because the joint proposal contains no provision of
4 measuring HEFPA compliance. The joint proposal had no reason to
5 address HEFPA compliance because HEFPA compliance is not at
6 issue in this case. PULP claims that the company does not
7 comply with HEFPA. PULP cites no basis in the record to support
8 its claim. It seeks to introduce new evidence at this late
9 stage of the proceeding, limited to specific circumstances of
10 one of Con Edison's more than 3 million customers. The
11 testimony then makes unfounded speculation that utilities
12 generally have incentive to cut cost at expense of HEFPA
13 compliance, again, without basis for the general speculation and
14 certainly no basis for concluding that Con Edison would do so.
15 Nothing in the company filing, the record in this case or the
16 joint proposal provides a basis for the PSC to entertain a new
17 performance metric at this stage of the proceeding. The PSC has
18 ample statutory authority to enforce its HEFPA rules and
19 regulations. Accordingly, the company submits that the
20 testimony of Miss Brockway, starting on Page 15, Lines 7 through
21 Page 20 -- Line 21 and the associated appendices be stricken.

22 With respect to the low income discount program, again,
23 Con Edison's low income programs were subject to intense
24 scrutiny in these proceedings. Multiple parties made proposals.
25 PULP made low income proposals. Settlement discussions duly

1 considered all low income proposals, including proposals made by
2 PULP. PULP's direct and rebuttal testimony proposed that the
3 company maintain the structure of the low income programs in
4 effect today. PULP now suggests that the proper structure of
5 low income discount is a percentage discount for customer
6 billing. The basis of PULP's proposal in their supplemental
7 testimony is new facts and circumstances submitted by PULP with
8 respect to programs in other states that has not previously been
9 introduced into the record in this case and for which parties in
10 this case had no reasonable opportunity to evaluate; nor does
11 PULP provide any analysis of potential impact of such proposal
12 on other customers. PULP had a full opportunity to present
13 information regarding low income programs in other states during
14 the testimony and litigation phases of these proceedings, but
15 failed to do so. The joint proposal duly considered PULP's
16 prior recommendations, and in fact, proposed a structure
17 consistent with and in furtherance of PULP recommendation. The
18 JP provides no basis for PULP introducing -- providing PULP a
19 new opportunity to present new evidence or make new proposals
20 with respect to low income programs.

21 Accepting this evidence of low income rate structures at
22 this late stage of the proceeding would be highly prejudicial to
23 the due process rights of other parties to these proceedings.
24 Accordingly, the following testimony of Miss Brockway should be
25 stricken: Page 12, Line 8 and Page 13, Line 23. Thank you,

1 Your Honors.

2 JUDGE PAUL AGRESTA: Thank you.

3 Mr. Norlander, do you care to respond?

4 MR. GERALD NORLANDER: Yes, Your Honor.

5 I'm Gerald Norlander, for the Public Utility Law Project
6 opposing the motion.

7 On December 31 the signatory parties submitted a joint
8 proposal with exhibits, which is at variance with the prior file
9 positions of the signatory parties. The company seeks to strike
10 the testimony that we put in in opposition to this, which is at
11 variance with testimony previously submitted or which could have
12 been submitted another time. All of the things that are in here
13 could have been submitted at another time prior, but it wasn't.
14 The company alluded to settlement discussions. I think that's
15 not a proper subject of discussion as to who said what in -- or
16 could have said what in discussions that were had.

17 With respect to the HEFPA issue, the company's rebuttal
18 testimony said that the company -- there was no evidence of
19 company noncompliance with HEFPA. We raised an issue regarding
20 the situation where people living in the household where a
21 customer has died have difficulty establishing an account
22 without being threatened with shutoff for the deceased person's,
23 deceased customer's, bills and we submitted what we think was
24 incontrovertible request for admission. The company objected on
25 the ground that it involved a particular customer. We think

1 that that objection was -- was not well founded and -- and we
2 submitted that for -- to the judges and the Commission for
3 consideration for whatever weight it may have. We realize it's
4 anecdotal. We realize it's one situation, but it illustrates
5 the potential that with enormous cost pressures placed on the
6 company through this plan to cut costs, that they might also cut
7 corners in -- with regard to protection of the customer rights
8 to get service and to have it provided in compliance with the
9 Fair Practices Acts.

10 With regard to the low income proposal, again, the joint
11 proposal contains low income proposals that were not contained
12 in the testimony of the signatory parties. I don't see that we
13 should be constrained with -- with -- with some rule that chains
14 us to -- to anticipate this when we submitted our initial
15 rebuttal testimony. So for those reasons I request that the
16 motion be denied, and also that if -- if you do take it under
17 consideration, that we have a brief time to submit a written
18 response. Thank you.

19 MR. MARC RICHTER: Just a brief reply, if I may, Your
20 Honor. You know, again, the -- the proposals that are presented
21 in the joint proposal with respect to the low income program are
22 based upon the underlying records in this case and proposals
23 made by various parties, including PULP, during the litigated
24 phase of this proceeding. Again, one of the bases for striking
25 PULP's latest proposal with respect to low income program is

1 that a basis for this new proposal is bringing in brand new
2 evidence of rate structures in other states. That was never
3 part of the record in this case and the parties in this case
4 never had the opportunity to consider, and PULP had the full
5 opportunity and chose or failed to do so, you know, earlier in
6 the case. And with respect to the HEFPA compliance issue, while
7 PULP raised customer service issues earlier in this proceeding,
8 right, there was no evidence and -- and look for there to be
9 certain changes maybe in company practices in terms of assisting
10 customers who in PULP's view, you know, required some additional
11 assistance, nowhere in the record in this case was there any
12 indication or allegation that the company was fully complying,
13 you know, with the Commission's HEFPA rules and regulations or
14 other rules and regulations and -- and the allegations that are
15 coming about in the supplemental, you know, testimony of
16 Miss Brockway goes beyond looking for relief for customers and
17 starts, again, trying to bring in new evidence at this late
18 stage of the proceeding in order to establish performance
19 mechanism where, you know, PULP could have had the opportunity
20 to make such allegations and present such proposals early in the
21 proceeding. They had a full opportunity to do so. It failed to
22 do so, and should not be given that opportunity now just because
23 the joint proposal has been submitted.

24 JUDGE PAUL AGRESTA: Alright, we're gonna take a quick
25 break.

1 (Whereupon, a brief recess was taken.)

2 JUDGE JULIA SMEAD BIELAWSKI: Order, please. We're gonna
3 come to order. We've decided we are going to resolve the motion
4 now on the record as opposed to wait for witness submissions and
5 do it later on. We're going to deny the motion to strike in its
6 entirety. The reason for that is that we can't accept
7 Con Edison's premise that this testimony is outside the scope of
8 this proceeding. We see the joint proposal itself as expanding
9 the scope of the previous litigated positions and the scope of
10 this proceeding in the sense that it reaches out even to other
11 proceedings to resolve issues that were not originally in this
12 proceeding. It includes compromised positions that were not
13 those the parties might have otherwise had, and we see PULP's
14 proposals here as responsive to the joint proposal. To the
15 extent that their interests were not captured by those
16 compromised positions, they have the right to indicate ways that
17 the joint proposal should be modified.

18 We will say that our role in evaluating the joint proposal
19 in part is to look at whether it's a fair compromise of the
20 previously litigated positions, and to that extent, proposals
21 that might be way outside that scope you'll factor that in in
22 terms of what weight we give them in considering the joint
23 proposal.

24 We want to clarify that we do not see the issue as whether
25 the incident described in Miss Brockway's testimony resulted in

1 a HEFPA violation to be before us. We don't intend to resolve
2 that issue, nor do we expect the commission to resolve that
3 issue. What we see is it just as being evidence in support of
4 PULP's argument that there should be a performance metric tied
5 to HEFPA compliance, and only for that reason will we consider
6 it. Anything else?

7 JUDGE PAUL AGRESTA: No.

8 JUDGE JULIA SMEAD BIELAWSKI: So the motion is denied.

9 MR. MARC RICHTER: That you, Your Honor.

10 JUDGE PAUL AGRESTA: Okay, does anybody else have a matter
11 they want to raise at this time? Okay.

12 Alright, then I think what we're gonna do at this point is
13 mark some exhibits, and the first one we're gonna mark is the
14 joint proposal itself. The joint proposal is dated December 31,
15 2013. It's been submitted electronically, and it's already in
16 the Commission's database. It includes a voluminous agreement
17 as well at 28 appendices. We are going to mark that as Exhibit
18 1000 for identification.

19 (Joint proposal dated December 31, 2013 was marked as
20 Exhibit 1000, for identification, as of this date.)

21 JUDGE PAUL AGRESTA: Also submitted with the joint proposal
22 was a set of electric bill tables for rate year one. We're
23 gonna mark those bill tables as Exhibit 1001 for identification.
24 Bill tables for electric rate year two, we're gonna mark as
25 Exhibit 1002 for identification and the gas bill tables that

1 were submitted are gonna be marked as Exhibit 1003 for
2 identification.

3 (Set of electric bill tables for rate year one, bill tables
4 for electric rate year two and gas bill tables were respectively
5 marked as Exhibits 1001, 1002 and 1003, for identification, as
6 of this date.)

7 JUDGE PAUL AGRESTA: Now in response to a request that was
8 made previously to Con Edison by the judges about healthcare
9 enrollment, we received a one page document from Con Edison and
10 all parties, I believe received it electronically. It's
11 entitled "Healthcare Enrollment Actual 2014", and it's a one
12 page table, and I'd like to mark that as Exhibit 1004 for
13 identification.

14 (One page document, entitled "Healthcare enrollment Actual
15 2014" was marked as Plaintiff's Exhibit 1004, for
16 identification, as of this date.)

17 JUDGE PAUL AGRESTA: Now at the end of the hearing today
18 we'll discuss moving exhibits into evidence. We don't do that
19 now.

20 The next item of business then will be to call the
21 Con Edison Staff Panel in support of the joint proposal. The
22 panelists are already seated at the front table, and I would
23 like first Con Edison and then staff to introduce your panelists
24 by giving your names.

25 MR. KEVIN LANG: Your Honor, before we get to that,

1 Kevin Lang, for the City. Just one procedural question because
2 different judges do it differently. The statements that we all
3 submitted, are you gonna treat those as briefs or mark those as
4 exhibits?

5 JUDGE PAUL AGRESTA: I'm treating those as briefs.

6 MR. KEVIN LANG: Okay, thank you.

7 MR. MARC RICHTER: Your Honor, I'll just note also that
8 based on the limited space at the table --

9 MR. USHER FOGEL: There's two people in the other room.

10 MR. MARC RICHTER: -- and based upon the indications on the
11 table of contents circulated by the judges in terms of possible
12 questions, we have two other representatives from the company
13 not at the front table. I'll ask that they identify themselves
14 as well, and if questions get into those areas, they can come up
15 to the table to answer questions in those areas.

16 JUDGE JULIA SMEAD BIELAWSKI: Why don't we swear everyone
17 in. I'd like them to stand as well then and participate in the
18 swearing in. Why don't we do this, why don't we have all the
19 witnesses stand and we'll start all the way on the left with
20 you, sir.

21 Can you state your name and we'll go right down the line?

22 MR. WILLIAM ATZL: It's William Atzl, A-T-Z-L.

23 MR. JOHN CATUOGNO: John Catuogno, C-A-T-U-O-G-N-O.

24 MR. RICHARD KANE: Richard Kane, K-A-N-E.

25 MR. BOB MUCCILO: Bob Muccilo, M-U-C-C-I-L-O.

1 MR. SCOTT SANDERS: Scott Sanders, S-A-N-D-E-R-S.

2 MR. RICHARD MCKNIGHT: Richard McKnight, M-C-K-N-I-G-H-T.

3 MR. MARTIN INSOGNA: Martin Insogna, I-N-S-O-G-N-A.

4 MR. CRAIG HENRY: Craig Henry.

5 MR. KEVIN HIGGINS: Kevin Higgins, H-I-G-G-I-N-S.

6 MR. MARCO PADULA: Marco Padula, P-A-D-U-L-A.

7 JUDGE JULIA SMEAD BIELAWSKI: Can you all raise your right
8 hand, please, and we'll do this all together, okay. Do you
9 swear or affirm that the testimony you are about to give will be
10 the truth, the whole truth and nothing but the truth?

11 MR. WILLIAM ATZL: Yes.

12 MR. JOHN CATUOGNO: Yes.

13 MR. RICHARD KANE: Yes.

14 MR. BOB MUCCILO: Yes.

15 MR. SCOTT SANDERS: Yes.

16 MR. RICHARD MCKNIGHT: Yes.

17 MR. MARTIN INSOGNA: Yes.

18 MR. CRAIG HENRY: Yes.

19 MR. KEVIN HIGGINS: Yes.

20 MR. MARCO PADULA: Yes.

21 JUDGE JULIA SMEAD BIELAWSKI: Do you adopt your pre-filed
22 testimony as your sworn testimony in these proceedings?

23 MR. WILLIAM ATZL: Yes.

24 MR. JOHN CATUOGNO: Yes.

25 MR. RICHARD KANE: Yes.

1 MR. BOB MUCCILO: Yes.

2 MR. SCOTT SANDERS: Yes.

3 MR. RICHARD MCKNIGHT: Yes.

4 MR. MARTIN INSOGNA: Yes.

5 MR. CRAIG HENRY: Yes.

6 MR. KEVIN HIGGINS: Yes.

7 MR. MARCO PADULA: Yes.

8 JUDGE JULIA SMEAD BIELAWSKI: Let's strike that last
9 question. They don't have any. Thanks.

10 JUDGE PAUL AGRESTA: The judges have a substantial number
11 of questions for the panel, but I'd like to know at this time
12 whether there are any other parties that are gonna have cross
13 examination for these two panels?

14 MR. GEORGE NORLANDER: We have some.

15 JUDGE PAUL AGRESTA: So PULP. Is there any other party?
16 Okay, I think we're gonna do the judges's questions first, okay.

17 My first question refers to Page 7 of the joint proposal.
18 Page 7 discusses the rate levelization that's proposed, and I
19 want to make sure my understanding of what's going on here is
20 correct.

21 Absent future Commission action, if the joint proposal is
22 approved, is it true that if the company was to stay out in rate
23 year three and not come in for a change in rate, that bills
24 would increase for rate year three by 47.776 million dollars?

25 MR. RICHARD KANE: Yes, that is correct.

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JUDGE PAUL AGRESTA: And that's because there's a credit that would be expiring at the end of rate year two; is that right?

MR. RICHARD KANE: That is correct.

JUDGE PAUL AGRESTA: The joint proposal identifies a deferral benefit for customers due to the levelized rate changes at 30.1 million dollars as of December 31, 2015; is that correct?

MR. RICHARD KANE: That is correct.

JUDGE PAUL AGRESTA: And is it the intention of the parties that in the event of a stay-out in rate year three that the 30.1 million would remain in deferral earning interest?

MR. RICHARD KANE: Yes, that is correct.

JUDGE PAUL AGRESTA: And on Appendix 1, Page 7 of 7 of the joint proposal, there's language to the effect that the credit would be available to offset a portion of this increase; is that correct?

MR. RICHARD KANE: In the next rate filing, yes, that's correct.

JUDGE PAUL AGRESTA: Yes. Now what process would have to be filed for the Commission to be able to take advantage of that -- I'm sorry, you said in the next rate filing.

If the Commission wanted to do something in rate year three in the event of a stay-out and no rate filing, there's no

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opportunity built into the joint proposal for them to take advantage of that, correct?

MR. RICHARD KANE: Not specifically in the joint proposal.

JUDGE PAUL AGRESTA: So is it correct to say that if the Commission wanted to do something in rate year three, they would have to probably issue a SAPA notice and act on it at a Commission session and order another tariff change; isn't that correct?

MR. MARC RICHTER: Your Honor, I think the Commission took similar action to use credits during the current company electric rate plan, so I guess the answer -- so --

JUDGE PAUL AGRESTA: I want the witnesses to answer, okay?

MR. MARC RICHTER: Sorry.

MR. RICHARD KANE: Yes, there was a proceeding 12-C-0008 in which the Commission took action to eliminate a temporary rate increase and the company had reflected in the third rate year of its expired electric rate plan.

JUDGE PAUL AGRESTA: If the Commission was to decide -- so I think the answer to my question was yes, if the Commission wants to take advantage of that credit in rate year three in the new rate filing, it would have to institute some kind of action on its own; that's correct?

MR. RICHARD KANE: Yes, yes.

JUDGE PAUL AGRESTA: If the Commission on approving the

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2 joint proposal was to decide that it wants to pre-approve the
3 use of those credits for rate year three in the event of a
4 stay-out, would the parties to the joint proposal consider that
5 something that would trigger Paragraph 4 on Page 118 of the
6 joint proposal? And I'd like both Con Ed and staff to answer
7 that question.

8 MR. MARC RICHTER: Your Honor, repeat the question

9 JUDGE PAUL AGRESTA: To clarify, Paragraph 4 says if the
10 Commission fails to adopt a joint proposal according to its
11 terms here, they would be using the credit rather than holding
12 for a future deferral. The signatory parties to the proposal
13 would be free to pursue their respective positions in this
14 proceeding; in other words, they wouldn't be bound by the joint
15 proposal.

16 MR. MARC RICHTER: Your Honor, may I confer?

17 JUDGE PAUL AGRESTA: Sure.

18 MR. RICHARD KANE: I'm sorry, could you restate the
19 question one more time?

20 JUDGE PAUL AGRESTA: If the Commission were to decide when
21 they approve the joint proposal that rather than waiting to use
22 -- to decide what to do about the credit at the end of rate year
23 two, to decide now that they will implement that credit in rate
24 year three in the event of a stay out only, would that be
25 something that would trigger the provisions in that separable

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clause on Page 118 of the joint proposal?

MR. RICHARD KANE: From the company's perspective, we would not have an issue with the Commission. The issue would require that the credit be applied in rate year three or at the end of the rate plan. We would only have an issue if the Commission tried to use the credit that doesn't exist at this point at a -- prior to the end of the rate plan.

JUDGE PAUL AGRESTA: Okay. And how about staff?

MR. MARCO PADULA: And staff has a similar position that we believe that such action would not trigger this provision that you referenced.

JUDGE PAUL AGRESTA: On Page 14 of the joint proposal there's a similar situation with the gas case. Is it correct that if there was a stay-out, and in this instance it would be rate year four, there would be a bill increase of 40.856 million dollars?

MR. RICHARD KANE: We agree.

JUDGE PAUL AGRESTA: And I'm also showing a credit of 32 million -- 23.265 million for gas customers as of the last year -- last day of rate year three; is that correct?

MR. RICHARD KANE: We agree, and there's also a correction to the appendix. In the footnote there was a typo. Appendix 2, Page 10 of 10 there was a typo in the first footnote. The end of the first sentence, the end of the first paragraph says

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2 deferred over collections of 362.65 million are available to
3 offset a portion of this increase. It should say 32.265.

4 JUDGE PAUL AGRESTA: Okay. Now I'm assuming that your
5 position is the same as to this credit, if the Commission was to
6 go ahead in February and to order that the credit will be
7 implemented in rate year four rather than waiting until the end
8 of rate year three to decide, I'm assuming your position would
9 be okay, that would be okay with Con Edison?

10 MR. RICHARD KANE: Yes, the company would be okay with it.

11 JUDGE PAUL AGRESTA: Same for staff?

12 MR. MARCO PADULA: Same for staff, Your Honor.

13 JUDGE PAUL AGRESTA: On Page 25 we have the same situation
14 with the steam case. There the bill increase in rate year four
15 would be 17.696 million; is that correct?

16 MR. RICHARD KANE: That is correct.

17 JUDGE PAUL AGRESTA: And the credit would be 8.158 million
18 at the end of rate year three?

19 MR. RICHARD KANE: Yes, that is correct.

20 JUDGE PAUL AGRESTA: And I'm guessing then that your
21 position is the same as to that, if the Commission wants to
22 implement that credit right away, it could, in your view?

23 MR. RICHARD KANE: Yes.

24 JUDGE PAUL AGRESTA: The same for staff?

25 MR. MARCO PADULA: The same for staff.

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2 JUDGE PAUL AGRESTA: Thank you. Could somebody remind us
3 why there are no steam bill tables? Is that because there's no
4 resident allocation changes?

5 MR. MARCO PADULA: That's correct.

6 JUDGE PAUL AGRESTA: Now attached to staff's statement in
7 support there was a reconciliation, and I'm just going by
8 memory, but I believe it shows that in rate year one there was a
9 -- there was an approximately 69 million dollar reduction in
10 property taxes and in rate year two there was approximately a
11 71 million dollar increase in property taxes. Could someone on
12 staff explain what's going on with property taxes, and in
13 addition, if you could also explain where the 140 million dollar
14 refund fits into all of this, these different numbers that are
15 in the reconciliation?

16 MR. KEVIN HIGGINS: Sure. So with respect to the reduction
17 shown on Attachment A of approximately \$69,000,000, that's the
18 differential between what's built into Con Ed's current electric
19 rate plan versus the level that's established in the rate year
20 one of this proposed plan. So you could say that the level that
21 Con Ed's currently collecting is less -- it's -- it's more than
22 this latest known property taxes because that's what we
23 forecasted the rate year one level to be based on these known
24 levels. So overshot the mark in the last rate plan. That level
25 set too high.

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2 JUDGE PAUL AGRESTA: What explains the reduction? Is there
3 a -- what's going on?

4 MR. KEVIN HIGGINS: There was a reduction in primarily the
5 tax rates, New York City's tax rates.

6 MR. RICHARD KANE: Just to amplify, the company was able to
7 achieve an obsolescence credit from the State Board of
8 Equalization for much of its electric utility property to
9 determine the current rate plan, and that lowered current taxes
10 by approximately \$100,000,000 each year in the second and third
11 years of the expired electric rate plan.

12 JUDGE PAUL AGRESTA: Then that credit expires at some
13 point?

14 MR. RICHARD KANE: No, it continues and it's reflected in
15 the lower level of property taxes in this case.

16 JUDGE PAUL AGRESTA: Okay, and then what's driving them up
17 in rate year two?

18 MR. KEVIN HIGGINS: It's just the additions to plan, plus
19 the forecasted growth rate, growth and taxes, which is -- is --
20 is -- is not all that much, but it's still significant enough to
21 raise the company's level of taxes.

22 JUDGE PAUL AGRESTA: So I believe the number was 71
23 million; is that right?

24 MR. KEVIN HIGGINS: Correct.

25 JUDGE PAUL AGRESTA: It goes up? You got to talk.

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2 MR. KEVIN HIGGINS: Correct.

3 JUDGE PAUL AGRESTA: Is that something that we should
4 expect will occur year to year, every year; the taxes will go
5 up?

6 MR. KEVIN HIGGINS: Depending on a number of factors.
7 Could be a ballpark number. It's a good approximation based on
8 the company's ongoing construction.

9 JUDGE PAUL AGRESTA: Mr. Higgins, if you could also show me
10 where the tax refund fits into all of these numbers?

11 MR. KEVIN HIGGINS: On Attachment A it would be reflected
12 in under the regulatory deferrals, the refund, property tax
13 refund. That number there is a little over 32 million. That
14 includes the electric department's share of the property tax
15 refund the company achieved earlier this year. The electric
16 portion -- the electric part, I'm sure that refund is
17 approximately 85 million. It's being amortized in rate year one
18 being passed back to customers at 28 million dollars a year. So
19 at the end of the rate plan there will still be an additional
20 28 million dollars for customers. The other portion of that is
21 for steam customers. That's on Attachment C, also in regulatory
22 deferral. The top line item, deferred property tax refund, that
23 represents the steam customers's share. That's at about 12
24 million a year for about 36 million dollars.

25 JUDGE PAUL AGRESTA: Thank you. That's very helpful.

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Alright, let's go to Page 17 of the joint proposal. Near the top of the page the joint proposal is talking about non-firm revenues and the 65 million dollar imputation.

Is it the intention of the parties signing the joint proposal to eliminate all incentives to encourage non-firm revenues below the 65 million dollar threshold?

MR. MARCO PADULA: I'm not sure I follow the question.

JUDGE PAUL AGRESTA: Under the prior rate plan there were financial consequences to Con Edison if it didn't achieve the imputation amount. Under this rate plan there appear to be none because it's full reconciliation, so I'm wondering whether the intent was to eliminate that incentive?

MR. MARCO PADULA: That was the intent because of the fact that we're raising the imputation.

JUDGE PAUL AGRESTA: How much did you raise the imputation by?

MR. RICHARD KANE: The imputation went from 53 million up to 65.

MR. MARCO PADULA: 12 million.

JUDGE PAUL AGRESTA: You have to actually talk --

MR. MARCO PADULA: I know.

JUDGE PAUL AGRESTA: -- if you want to get it in the transcript. The imputation has been raised, but why is there -- why is no incentive necessary at the lower levels at this point?

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MR. MARCO PADULA: It was staff's belief that the company would easily achieve the imputation level.

JUDGE PAUL AGRESTA: And about 65 million you have a built-in incentive, correct?

MR. MARCO PADULA: That's correct.

JUDGE PAUL AGRESTA: Alright, let's go to Page 33 of the joint proposal. Now this section talks about shared earnings. Earlier in the proceeding there was some arguments between the parties about what to do in a partial year and how you would calculate the earnings calculations. Is Appendix 13 which is referenced here meant to resolve the issues between the parties as to how to calculate earnings sharing in a partial year?

MR. KEVIN HIGGINS: Going forward.

JUDGE PAUL AGRESTA: What do you mean by going forward?

MR. KEVIN HIGGINS: Going forward under the proposed rate plan.

JUDGE PAUL AGRESTA: Okay, and by that I think you're referring to the fact that the joint proposal says specifically what happens to the prior partial year; is that right?

MR. KEVIN HIGGINS: That -- that is no longer an issue.

JUDGE PAUL AGRESTA: Why is it no longer an issue?

MR. KEVIN HIGGINS: A condition was reached that the company would -- that method that's being proposed here is just for this rate plan, and there was no special method to compute

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2 earnings under the prior rate plan, so straight averaging.

3 JUDGE PAUL AGRESTA: Okay, so the dispute was resolved?

4 MR. KEVIN HIGGINS: It was.

5 MR. RICHARD KANE: I think the footnote on 24, on Page 33
6 of the joint proposal resolves the calculation of earnings
7 sharing for the expired rate plans. The appendix really address
8 how the company would calculate the earnings sharing going
9 forward under the new rate plan.

10 JUDGE PAUL AGRESTA: So both Con Ed and staff are saying
11 that there's been a meeting of the minds on how to calculate
12 earnings sharing in a partial period both for the prior year and
13 for going forward?

14 MR. KEVIN HIGGINS: Yes.

15 MR. RICHARD KANE: Yes.

16 JUDGE PAUL AGRESTA: Okay, thank you.

17 Now let's go to my favorite pages, Pages 34 through 37.
18 Now I would appreciate it if someone could walk us through these
19 pages and explain to us in plain language what it is you're
20 doing here?

21 MR. RICHARD KANE: Okay, I'll give it a shot.

22 MR. MARCO PADULA: Can I just give one opening sentence?

23 MR. RICHARD KANE: Please do.

24 MR. MARCO PADULA: Before we walk through the mechanics,
25 what is the intent of what's described here really is to allow

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2 costs shifting between the reliability category and the storm
3 hardening category up to a certain degree as this mechanism
4 provides. So that as an opening, then you can -- Rich can try
5 to walk through the mechanism a little bit and we can talk about
6 it, but it's really -- to not have that downward reconciliation
7 apply strictly to under recovery -- under spending on storm
8 hardening without first looking at spending in the reliability
9 category for the reason that the company also does storm
10 hardening in the reliability category, we didn't want to lose
11 that fact.

12 JUDGE PAUL AGRESTA: Okay. Thank you.

13 MR. MARCO PADULA: Yes.

14 MR. RICHARD KANE: Just to follow up on what Marco said,
15 that the existing rate plan we have a number of silos, the
16 expired rate plans, and it was the company's intent to try and
17 eliminate some of those silos, so if you go to Appendix 8, Page
18 3 of 5, at this point there for electric there are three silos
19 or three targets that the company will reconcile to. The first
20 one is for -- is the other category which encompasses
21 production, plan additions and shared services or general plan
22 additions. The second category is T&D, which would encompass
23 interference, reliability product, as Marco indicated, and then
24 all other, and then actually within that as well is a storm --
25 storm hardening project. There's actually two -- two silos.

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2 The -- the intent is that these balances are what's reflected in
3 rate base to the extent the company under spends or closes out
4 less plan to service net plan than what's in the target, the
5 company would accrue a full carrying charge for the benefit of
6 the customers. The, as Marco indicated, the storm hardening and
7 reliability targets are somewhat linked in that the dollars may
8 be spent for one project that really encompasses one category or
9 the other. So there are certain limitations or minimum amounts
10 that were set as targets in the JP that the company would have
11 to spend, I believe, 85 percent of the reliability capital
12 expenditures, and there's -- there's actually a table that's
13 Appendix 8, Page 5 of 5 that shows the -- how the metrics was
14 worked between reliability -- I guess it was 90 percent between
15 reliability and storm hardening. So it lays out if the company
16 underruns one category and overruns in the other, it can kind of
17 offset one against the other, and that's sort of shown on the
18 bottom -- the bottom three examples in that table.

19 JUDGE PAUL AGRESTA: Could you pick one example and just
20 walk us through it so we can understand what's going on?

21 MR. RICHARD KANE: Sure. So for example, for the second
22 one from the bottom, if T&D reliability spending is 104 percent
23 of the target and the storm hardening target is 86 percent of
24 the target, or underran by 14 percent, the company would defer
25 basically 10 percent of the difference. It would add those two

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2 together and -- and defer for the benefit of customers, let's
3 say, a ten dollar underrun as opposed to deferring 14 dollars if
4 they were separate.

5 JUDGE PAUL AGRESTA: So you're saying you don't get credit
6 for an overrun?

7 MR. RICHARD KANE: In this case we would get credit for an
8 overrun in one category against the other. In the past when we
9 had silos, each category stood on its own. If you overran one
10 category, you couldn't offset it against another category. In
11 this instance these two targets are somewhat tied.

12 JUDGE PAUL AGRESTA: Can somebody on staff understand this
13 table and is gonna be able to apply it?

14 MR. MARCO PADULA: Yes.

15 JUDGE PAUL AGRESTA: Is that you, Marco?

16 MR. MARCO PADULA: Not only me, I hope.

17 JUDGE PAUL AGRESTA: Is there anything else we need to know
18 to understand those four pages?

19 MR. RICHARD KANE: I believe that's -- that's really it.

20 JUDGE PAUL AGRESTA: Okay, thank you. Do you have any
21 other questions?

22 JUDGE JULIA SMEAD BIELAWSKI: No.

23 JUDGE PAUL AGRESTA: Pages 44 through 46 of the joint
24 proposal. Now this section is on oil and gas conversions. Are
25 these reconciliations intended to provide an incentive of some

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kind?

MR. MARCO PADULA: I would say not necessarily an incentive, but encouraging the company to complete the number of conversions that it had proposed in the case and that had -- that staff had reviewed and -- and looked at the corresponding capital costs for which the -- the joint proposal provides cost recovery of.

JUDGE PAUL AGRESTA: Well, if the reconciliations are all downward, how does that encourage the company to do the work? I mean there's no consequence to the company, right, if they don't do the work?

MR. MARCO PADULA: This is not the only -- this is not the only mechanism that would encourage the company to add oil to gas conversion customers. There are already incentives built into the revenue per customers mechanism through the RDM. The fact that they are getting additional revenue for each of these customers that they add, that really provides the incentive to add the customer.

JUDGE PAUL AGRESTA: Would it be fair to say that this section is primarily just to recover the cost, as I understand?

MR. MARCO PADULA: That's correct.

JUDGE PAUL AGRESTA: Does Con Ed have a different view?

MR. RICHARD KANE: The company agrees.

JUDGE PAUL AGRESTA: Thank you. Okay, Page 46. Why is

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Manhattan singled out for a higher share of pipe replacement?
Is it because people negotiating live in Manhattan or is there
some actual reason for that?

MR. MARCO PADULA: No. The reason that Manhattan is
specifically pointed out here is that the cost of the
replacement of -- of the entire replacement of the two miles,
three miles and four miles is costed out at the Manhattan rate,
and we wanted to ensure that we got a minimum amount in
Manhattan, but then the company would be able to install the --
the replacement in other areas, hopefully at more -- at a
greater number of miles because the rate is lower replacement --
replacement cost rate is lower in those other areas. So the
intent is to get a minimum amount of replacement in Manhattan.

JUDGE PAUL AGRESTA: Okay. I understand that it cost more
to replace pipe in Manhattan than somewhere else. Why is it
important that there be a minimum number of pipe replacement in
Manhattan as opposed to anywhere else?

MR. MARCO PADULA: It really came down to the cost -- the
costing -- the cost of the data. The unit cost that was used to
provide rate recovery is -- is all costed out at the unit cost
of Manhattan.

JUDGE PAUL AGRESTA: So you provided enough money to do
replacements in Manhattan?

MR. MARCO PADULA: There's enough money to do all

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2 replacements in Manhattan.

3 JUDGE PAUL AGRESTA: And presumably, that's also enough
4 money to do replacements anywhere else because apparently it's
5 cheaper anywhere else?

6 MR. MARCO PADULA: That's correct.

7 JUDGE PAUL AGRESTA: That part I understand. Then why
8 would you have a minimum in Manhattan? Why wouldn't you spread
9 it out fairly over the whole territory?

10 MR. KEVIN LANG: Your Honor, on behalf of the City, I know
11 I'm not a witness, but I would be happy to help answer your
12 question.

13 JUDGE PAUL AGRESTA: Let's let the panel answer it first.

14 MR. MARC RICHTER: Your Honor, we have another Con Edison
15 representative here. If you want to swear him in, he can
16 provide the company's perspective with respect to the question
17 at issue.

18 JUDGE PAUL AGRESTA: Alright, let's let Mr. Padula finish
19 his thought first.

20 MR. MARCO PADULA: So it is staff's understanding that when
21 you do look at where the majority of the pipe is, it is located
22 in Manhattan.

23 JUDGE PAUL AGRESTA: Okay, that's very helpful.

24 MR. MARCO PADULA: Right. There's, that's another reason
25 to have the minimum amount. In addition, we point out that

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2 there was an overall minimum of nine miles to be satisfied.

3 JUDGE PAUL AGRESTA: That answers my question, and I'm
4 ready to move on. So I don't think we need the other witness.

5 MR. KEVIN LANG: That was the answer I was going to
6 provide, Your Honor.

7 MR. MARC RICHTER: Your Honor?

8 JUDGE PAUL AGRESTA: Hold on.

9 MR. MARC RICHTER: May I just have a minute?

10 JUDGE PAUL AGRESTA: Go ahead.

11 JUDGE JULIA SMEAD BIELAWSKI: Just a followup to that. The
12 two miles and three miles and four miles that are designated to
13 be replaced in flood-prone zones, are those numbers, do we add
14 those numbers to the targets in Appendix 17, so for the next
15 year is it not 60, but 62?

16 MR. MARCO PADULA: They're incremental to the targets.

17 JUDGE JULIA SMEAD BIELAWSKI: Okay, thank you.

18 JUDGE PAUL AGRESTA: Mr. Richter, did you have an issue
19 that you needed to raise?

20 MR. MARC RICHTER: Just a moment, Your Honor. Nothing to
21 add, Your Honor.

22 JUDGE PAUL AGRESTA: Thank you. Okay, let's go to Page 71.
23 Now the reason why electric bill tables are provided is because
24 there are changes in individual customer rates due to primarily
25 revenue allocation; is that correct?

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2 MR. MARCO PADULA: That's correct.

3 JUDGE PAUL AGRESTA: Now in the case Con Edison identified
4 a NYPA deficiency which the joint proposal proposes to reduce by
5 9 million in each of the two rate years.

6 MR. MARCO PADULA: Well, not -- not -- not to reduce by,
7 but to recognize 9 million of the deficiency.

8 JUDGE PAUL AGRESTA: I'm sorry, the 9 million doesn't then
9 -- you're collecting 9 million more from NYPA customers; is that
10 right?

11 MR. MARCO PADULA: Correct.

12 JUDGE PAUL AGRESTA: Doesn't that reduce the deficiency of
13 revenues being collected from NYPA customers?

14 MR. MARCO PADULA: Yes.

15 JUDGE PAUL AGRESTA: Okay. So that in the two -- there's 9
16 million one year, 9 million the next year, so that's a
17 cumulative 18 million?

18 MR. MARCO PADULA: Correct.

19 JUDGE PAUL AGRESTA: How much was the total of the
20 deficiency in the first place?

21 MR. MARCO PADULA: 26 million.

22 JUDGE PAUL AGRESTA: If Con Edison stays out for rate year
23 three, is there any further progress towards reducing the NYPA
24 deficiency built into the joint proposal?

25 MR. MARCO PADULA: There is not.

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2 JUDGE PAUL AGRESTA: In general, other than the NYPA
3 deficiency, are there other electric deficiencies that will not
4 be eliminated during the rate plan?

5 MR. WILLIAM ATZL: Yes, there is SC12, Service
6 Classification Number 12 also has a deficiency that will not --

7 JUDGE PAUL AGRESTA: How much of that deficiency will
8 remain after rate year two?

9 MR. WILLIAM ATZL: About one third of it.

10 JUDGE PAUL AGRESTA: Page 83, gas deficiency --

11 MR. KEVIN LONG: Excuse me, Your Honor; Kevin Lang for the
12 City. I know we are not a witness; however, we would just take
13 issue with the characterization by the witnesses of the NYPA
14 deficiency. There was extensive testimony during the case and
15 what you have in the joint proposal is a compromised position to
16 suggest then that there is still remaining deficiencies. The
17 parties agree that this resolves the issue.

18 JUDGE PAUL AGRESTA: I understand. Thank you. On Page 83
19 we talk about revenue allocation for the gas side. What is the
20 status of gas deficiencies at the end of the gas rate plan?

21 MR. WILLIAM ATZL: In the gas revenue allocation there were
22 no deficiencies. There was one surplus and that was addressed
23 in equal third over the three rate years, so there will be no
24 remaining surplus at the end of the rate plan.

25 JUDGE PAUL AGRESTA: Very good answer. Thank you. And on

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Page 89 for the steam, same two questions, what's the status of steam deficiencies or surpluses?

MR. WILLIAM ATZL: In steam we had no deficiencies or surpluses that are addressed at all.

JUDGE PAUL AGRESTA: That's why, as we said earlier, why there's no steam bill table?

MR. WILLIAM ATZL: Correct.

JUDGE PAUL AGRESTA: The health benefit enrollment table that we marked as Exhibit 1004, does that information in any way get incorporated into the joint proposal in some manner? In other words, how do your allowances for health benefits relate to the actual amount of enrollment that you had?

MR. BOB MUCCILO: Your Honor, the -- the company's position would be that it is reflected in terms of the overall settlement, in terms of the level of healthcare costs expenditures forecasted for the rate years. There were many moving parts; one being enrollment levels, two being general inflation and three being increased usage, and so the company's view would be that the -- the enrollment numbers, the final enrollment numbers aren't incorporated into the overall estimate of healthcare costs for each of the rate years.

JUDGE PAUL AGRESTA: Okay.

JUDGE JULIA SMEAD BIELAWSKI: So for rate year one it's not necessarily the actual enrollment levels, though; it's still an

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estimation?

MR. BOB MUCCILO: In terms of the rate level?

JUDGE JULIA SMEAD BIELAWSKI: No, just the enrollment level.

JUDGE PAUL AGRESTA: Yes, yes. Say yes.

JUDGE JULIA SMEAD BIELAWSKI: Yes.

MR. BOB MUCCILO: It -- it's an estimate as well as an estimate of -- of inflation rate and as well as an estimate of usage, so -- so it -- the healthcare costs forecast is based on a three tier recipe, if you would, enrollment, inflation and utilization.

JUDGE JULIA SMEAD BIELAWSKI: And not only -- so you factored into the current enrollment levels once you got those numbers just as one of the moving parts as you say. How about premium levels for the plans. Do you get actual numbers for 2014 for those as well?

MR. BOB MUCCILO: The forecast reflects the latest known premium levels for healthcare costs.

JUDGE JULIA SMEAD BIELAWSKI: Thank you.

Okay, I have a couple of clarification questions.

The first is regarding Appendix 6, Schedule 3, Page 1 of 5, the revenue decoupling mechanism. I understand that the joint proposal, at least in the parties' comments that the RDM will not apply to Recharge New York customers, but when I look at the

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2 specific exclusion listed in this section, it just doesn't jump
3 out at me. Are we charging your customers listed in the joint
4 proposal under those exclusions? For example, I see the
5 Excelsior job customers, but --

6 MR. WILLIAM ATZL: I'm sorry, could you point to the page
7 again?

8 JUDGE JULIA SMEAD BIELAWSKI: I'm sorry, it is Appendix 6,
9 Schedule 3, Page 1 of 5 at the bottom.

10 MR. WILLIAM ATZL: Oh, this is the gas RDM mechanism.

11 JUDGE JULIA SMEAD BIELAWSKI: Okay, alright. Alright.

12 MR. WILLIAM ATZL: That's why the Excelsior job is
13 programmed for gas as well as electric, but Recharge New York is
14 not.

15 JUDGE JULIA SMEAD BIELAWSKI: Now is Recharge New York
16 excluded from the RDM; is that correct?

17 MR. WILLIAM ATZL: Yes, the Recharge New York portion of
18 the customers.

19 JUDGE JULIA SMEAD BIELAWSKI: Is that specifically
20 identified anywhere in the joint proposal or is it just by means
21 of the fact that they weren't before?

22 MR. WILLIAM ATZL: Actually, it's not a change. It was an
23 issue in the case, but ultimately it was not a change, so
24 without rereading that section, I believe we -- we didn't point
25 out things, generally speaking, that were not a change.

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2 JUDGE JULIA SMEAD BIELAWSKI: Okay.

3 Appendix 24, I don't know if that's gonna help you. Let me
4 ask the question. Maybe you can answer it without a specific
5 reference, but with regard to transportation balancing charges,
6 I see that the signatories have agreed on two percent balancing
7 bands and that just struck me as very different than any of the
8 litigated positions far narrower, and I didn't know if anyone
9 could explain to me what the rational for that is, if there's a
10 quid pro quo? I'm assuming that maybe the charge is less. Am I
11 making sense?

12 MR. MARCO PADULA: If I understand the question, the
13 question is why is the 2 percent band --

14 JUDGE JULIA SMEAD BIELAWSKI: If I remember correctly, it
15 was staff had originally proposed 5 percent and generators had
16 objected to that and then that generators signed the joint
17 proposal and I'm just wondering what made the 2 percent
18 palatable, if you can answer that?

19 MR. STEVEN KRAMER: Let me interject here, Your Honor. I'm
20 not sure we want these witnesses answering these questions why
21 the generators may have signed on what made the 2 percent
22 palatable, Your Honors.

23 JUDGE JULIA SMEAD BIELAWSKI: If it's not something they
24 can answer --

25 MR. STEVEN KRAMER: If it's confidential.

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2 JUDGE JULIA SMEAD BIELAWSKI: I thought there was perhaps
3 something simple I was missing. If you can just tell me the
4 penalty was less than it would have been, that would be great.
5 If you can't answer it, you can't answer it.

6 MR. STEVEN KRAMER: Okay.

7 MR. PETER CARNAVOS: Can you repeat the question please?
8 I'm sorry.

9 JUDGE JULIA SMEAD BIELAWSKI: I'm just trying to figure out
10 why the joint proposal, the parties have agreed to a 2 percent
11 tolerance band, and to me that would suggest that there was --
12 because am I correct that that's much narrower than anything
13 that had been proposed in litigation? Maybe I'm wrong about
14 that and misread it and I just was wondering if --

15 MR. MARC RICHTER: Just apropos of Mr. Kramer's comment, we
16 prefer that a Con Edison witness not speak as to why the
17 ultimate resolution was or was not acceptable to the generators.
18 To the extent you have questions about the company's
19 understanding and the company's understanding of the proposal
20 and how it relates to litigation positions, Mr. Carnavos can be
21 sworn in, and he would be the right person to do that from
22 Con Edison's position, but in reluctance to speak on behalf of
23 the generator. I think they did file a statement in support and
24 some -- I don't think it would be appropriate for our witness to
25 add or further explain their rational.

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2 JUDGE JULIA SMEAD BIELAWSKI: I'm going to swear you in.
3 First state your name, please.

4 MR. PETER CARNAVOS: Peter Carnavos, C-A-R-N-A-V-O-S.

5 JUDGE JULIA SMEAD BIELAWSKI: Do you swear or affirm that
6 the testimony you are about to give will be the truth, the whole
7 truth and nothing but the truth?

8 MR. PETER CARNAVOS: Yes.

9 JUDGE JULIA SMEAD BIELAWSKI: Alright, I don't want to know
10 what motivated any party to sign. What I want to know is what
11 -- if there's a reason you can tell me about a factual shift
12 that made the parties around the table -- whether there was a
13 quid pro quo in terms of -- of a two -- that's not the right
14 question either.

15 JUDGE PAUL AGRESTA: What's different?

16 JUDGE JULIA SMEAD BIELAWSKI: Yes, what is different, what
17 is different between -- it was 10 percent, staff had proposed 5
18 percent and now we're at 2 percent. Is there something else in
19 that formula that changed dramatically factually?

20 MR. PETER CARNAVOS: I think there's a recognition based on
21 the material being presented in the JP in the exhibit of a
22 series of tolerance bands that goes from zero to 2 percent and
23 continues up to increments up to 5 and you have to 10 percent
24 and above ten, so each of the plus or minus variations are
25 addressed.

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2 JUDGE JULIA SMEAD BIELAWSKI: Okay.

3 MR. PETER CARNAVOS: Okay, so --

4 JUDGE JULIA SMEAD BIELAWSKI: So it's not just a 2
5 percent --

6 MR. PETER CARNAVOS: Correct.

7 JUDGE JULIA SMEAD BIELAWSKI: -- it's a graduated scale?

8 MR. PETER CARNAVOS: Yes.

9 JUDGE JULIA SMEAD BIELAWSKI: Where in the joint proposal
10 is that laid out?

11 MR. PETER CARNAVOS: I believe it's in the exhibit. The
12 exhibit number I don't recall.

13 JUDGE JULIA SMEAD BIELAWSKI: I'll find it.

14 MR. PETER CARNAVOS: That lays out the what ultimately will
15 be a tariff filing the company would make in compliance with the
16 Commission's order that would certify the settlement, so that
17 would be a tariff that the company made and that would be
18 reflective in the company's gas tariff.

19 MR. MARC RICHTER: Your Honor, I think that the graduated
20 bands to which Mr. Carnavos referred are on the second page of
21 Appendix 24?

22 MR. PETER CARNAVOS: Correct.

23 JUDGE JULIA SMEAD BIELAWSKI: Thank you. Alright, I have a
24 question about the contribution of generators to line losses. I
25 understand the joint proposal proposes a study be performed, and

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2 what I want to know is until that study is completed in terms of
3 the contribution amount for generators that's agreed upon in the
4 joint proposal, is that the same level as exists now or is it an
5 increase? Just what was the status quo?

6 MR. PETER CARNAVOS: It is an increase from the status quo.

7 JUDGE JULIA SMEAD BIELAWSKI: By how much?

8 MR. PETER CARNAVOS: Currently the generators assess one
9 tenth of 1 percent, .1.

10 JUDGE JULIA SMEAD BIELAWSKI: .1.

11 MR. PETER CARNAVOS: We proposed and testified to and
12 supported .2 based on .1 being the use of gas for heater fuel,
13 the price of fuel for delivering gas across the system and .1
14 percent being meter error, so .2 was presented in terms of the
15 evidence. .3 was attribution to effectively have the generators
16 make a contribution to line loss to affect the -- reducing the
17 impact of line loss on all gas customers, so .5 became the
18 basis, and that would be based on the JP. .5 would be in effect
19 for the first rate year and the company would do a study during
20 2014 to determine whether that .3 that was in effect would
21 change on a going forward basis. That would be involved.

22 JUDGE JULIA SMEAD BIELAWSKI: Thank you. Is there any --
23 does the JP speak at all to the installation of slew skates?

24 MR. MARCO PADULA: It doesn't speak specifically to it, but
25 I believe that that's a project that's embedded in the

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2 underlying CAP-EX budget -- budgets for steam and electric
3 production, I think.

4 JUDGE JULIA SMEAD BIELAWSKI: There is a provision on first
5 responders, and my question is, and I realize it's not
6 necessarily that all the parties are in support but support or
7 not oppose the Commission, perhaps assisting in getting first
8 responder designation of company employees during emergency
9 situations, does anybody know or can explain to me what the
10 process is in being designated as a first responder or who
11 regulates that? I was just wondering if anyone knows.

12 MR. MARC RICHTER: I apologize, Your Honor. For that one I
13 don't think we have anybody here that can specifically speak to
14 that the question.

15 JUDGE JULIA SMEAD BIELAWSKI: That's okay. I was just
16 curious.

17 MR. KEVIN LANG: Judge, Kevin Lang from the City. I, for
18 all it's worth, I believe the governor of the state said he was
19 going to be advancing something on a statewide basis on that
20 very issue, so it might turn out to be a statutory change
21 ultimately. What we have here might be rendered moot to look at
22 it on budget or something else.

23 JUDGE JULIA SMEAD BIELAWSKI: Thank you.

24 MR. MARTIN INSOGNA: Your Honors, staff understands the
25 designation of first responder to be a -- a local designation,

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2 so each municipality would designate who's deemed to be or
3 treated as first responder within their respective locals, and
4 what the parties are asking in the joint proposal is simply that
5 the Commission support that pursuit and nothing more.

6 JUDGE JULIA SMEAD BIELAWSKI: Thank you.

7 JUDGE PAUL AGRESTA: Okay, let's go to Page 74, voluntary
8 time of use rate.

9 Why is it necessary for a customer to remain on the
10 voluntary time of use rate as a full service customer?

11 MR. WILLIAM ATZL: Under the proposed voluntary time of use
12 rate capacity costs or recovery of capacity costs is
13 concentrated in the summer months, so if a customer was allowed
14 to switch in -- under -- in under a year's time, there's the
15 potential for gaining the customer on the rate during the lower
16 cost times and get off of it during the higher cost times.

17 JUDGE PAUL AGRESTA: And the capacity cost is part of the
18 commodity bill then; is that what you're saying?

19 MR. WILLIAM ATZL: That's correct.

20 JUDGE PAUL AGRESTA: Have you done a month-by-month bill
21 comparison to determine when -- when a customer looks at their
22 bill they would feel that they were either better off or worse
23 off by being a voluntary time of use customer on a monthly
24 basis?

25 MR. WILLIAM ATZL: I believe we did in discovery. I don't

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2 have it available in front of me.

3 JUDGE PAUL AGRESTA: Is it generally true that the customer
4 is better off in the three summer months than -- but only
5 looking at the other nine months; during those nine months the
6 customer would feel like it was worse off?

7 MR. WILLIAM ATZL: I'm sorry, would you mind repeating
8 that?

9 MR. KEVIN LANG: Your Honor, could you turn your mic back
10 on?

11 JUDGE PAUL AGRESTA: Oh, I'm sorry. It's not on.

12 As I understand the program, the most in savings for the
13 customer occurs during the summer months when you have pushed
14 all the capacity costs into the summer months for time of use
15 customers; is that right?

16 MR. WILLIAM ATZL: It really depends on how the customers
17 use their energy. If they, for instance, if they do nothing to
18 react to the time of use rate structure, they would tend to pay
19 more in the summer months and less in the winter months than
20 would under conventional rates.

21 JUDGE PAUL AGRESTA: But if I look at my December bill, I
22 have to overcome more things to be at the point where I'm
23 actually ahead of the game just solely for the month of
24 December, not looking at an annual perspective; isn't that
25 right?

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2 MR. WILLIAM ATZL: I'm not sure what you mean by things you
3 have to overcome.

4 JUDGE PAUL AGRESTA: Well, in order to win on time of use
5 rates, you have to shift enough of your usage to overcome the
6 inherent costs of being on the program? For instance, you
7 include the cost of a meter in your program; is that correct?

8 MR. WILLIAM ATZL: That's correct.

9 JUDGE PAUL AGRESTA: So if I'm a time of use customer, I
10 have to pay for the added cost of my time of use meter or I have
11 to shift enough usage to cover that added cost before I achieve
12 any savings?

13 MR. WILLIAM ATZL: Yes.

14 JUDGE PAUL AGRESTA: And I believe the way the capacity
15 costs are done, I'm not getting any capacity cost savings in the
16 non-summer months; isn't that right?

17 MR. WILLIAM ATZL: You are paying -- you're paying for all
18 of your capacity costs in the summer months. So you're not
19 paying it in the winter. I'm not sure when you say you're
20 saving, I'm not sure what you're --

21 JUDGE PAUL AGRESTA: Why do you have me pay for all my
22 capacity during the summer?

23 MR. WILLIAM ATZL: It's in the summer months that the
24 company and the company's customers collectively set the
25 requirement, capacity requirement, that the company must

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purchase.

JUDGE PAUL AGRESTA: Because that's when the peak is; is that right?

MR. WILLIAM ATZL: Correct.

JUDGE PAUL AGRESTA: And if I'm a time of use customer and I can shift my usage to off peak, I can maximize savings by avoiding capacity costs because I'm helping you out by not using my energy during the peak when it's most expensive?

MR. WILLIAM ATZL: That's correct.

JUDGE PAUL AGRESTA: So the reason why you're charging me all of my annual capacity costs in the summer is because you want me to behave in a way that I'm gonna move as much of my usage as possible to off peak during the summer when it matters?

MR. WILLIAM ATZL: Yes.

JUDGE PAUL AGRESTA: That means that during the winter months I'm not paying any capacity costs?

MR. WILLIAM ATZL: Correct.

JUDGE PAUL AGRESTA: Now what is the other customer paying in terms of capacity costs in the winter months?

MR. MARTIN INSOGNA: Your Honor, before he takes that question, if I can just add to the response. I think there's a couple of things that are going on. One is that the -- the rate is not simply proposed to a differential on commodity costs. There's also a differential, cost differential that the customer

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2 can avoid by using power off peak as opposed to on peak, and I
3 think that's -- that's the key to a customer savings. It's not
4 necessarily a season. You're right that that capacity cost is
5 focused on the summer months, but the -- the customer saves not
6 by avoiding usage in the summer, but by avoiding usage on peak,
7 and that would be true in the summer months or each day, whether
8 summer or winter.

9 JUDGE PAUL AGRESTA: Except the customer's only avoiding
10 capacity costs in the summertime?

11 MR. WILLIAM ATZL: In the summertime to the extent the
12 customer uses less during the delivery rate peak period, they're
13 avoiding peak period delivery costs there as well.

14 JUDGE PAUL AGRESTA: I understand, but then I was talking
15 about capacity, in December when the customer's not avoiding any
16 capacity costs.

17 MR. WILLIAM ATZL: Well, in December the company -- the
18 customer on a time of use rate is paying less in terms of
19 capacity than conventional rate customer.

20 JUDGE PAUL AGRESTA: Okay. So if I do a bill comparison
21 voluntary time of use rate versus a normal bill, and if my usage
22 is exactly the same as the average usage in the class, in
23 December am I gonna pay exactly the same as the other customers
24 or am I gonna pay more or am I gonna pay less?

25 MR. WILLIAM ATZL: Than a conventionally billed customer?

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2 JUDGE PAUL AGRESTA: Yes.

3 MR. WILLIAM ATZL: You should be paying less because it's
4 more resident responsibility in the summer months, and during
5 the summer months --

6 JUDGE PAUL AGRESTA: Even if -- even if I haven't shifted
7 any of my usage?

8 MR. WILLIAM ATZL: Yes.

9 JUDGE PAUL AGRESTA: So it's your belief then that -- is
10 that enough -- is that capacity savings enough so that in every
11 winter month I'm gonna be ahead of the game on a monthly
12 standalone basis?

13 MR. WILLIAM ATZL: I don't know off the top of my head
14 because I think what you're getting at is whether you're
15 offsetting the meter charge, whether the savings on the delivery
16 and capacity offset the meter charge in the winter months.

17 JUDGE PAUL AGRESTA: Well, I'm talking about all charges
18 really. My concern is that a time of use customer is gonna look
19 at one bill. They're not gonna look at their annual bill. If
20 they looked at their annual bill, they would see a savings based
21 on the scheme you have. My concern is they're gonna look at one
22 bill, and say it's in October. If it turns out October they're
23 actual losing money or they're only saving, you know, five cents
24 or something like that, I'm afraid that they're not gonna do the
25 annual analysis that you need to show that it really worked, and

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2 I'm wondering whether the rate design you guys have chosen is
3 the ideal one when you're gonna have to overcome this problem of
4 customers only looking at one month at a time.

5 MR. WILLIAM ATZL: I think you're right, the customers may
6 tend to look at a bill and try and make a judgment based on that
7 bill, but one other aspect of the -- the new voluntary time of
8 use rate is the price guarantee which provides the customer with
9 protection for the first year, so I think that would help in
10 terms of them taking, you know, having the patience to go
11 through the first full year.

12 MR. MARTIN INSOGNA: That is for vehicle owners only, so it
13 wouldn't apply to all VTOU takers. I think that is a fair
14 concern, Your Honor, which is one of the reasons why it's
15 designed to be a one year program. You have a new program for a
16 year. You don't want customers to get scared a couple of months
17 in and switch because we think over the course of the entire
18 year they will save, but again the -- the -- the savings
19 potential is there in every month by using -- shifting more
20 usage to off peak periods, and that would be true whether it's
21 summer or winter.

22 JUDGE PAUL AGRESTA: Have you done a month-by-month rate
23 comparison to figure out what percentage of your usage you have
24 to shift to off peak in order to break even?

25 MR. MARTIN INSOGNA: They're -- Mr. Atzl is correct, there

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2 was a discovery response that provided some detail, and I,
3 again, do not have that directly before me, so I don't think I
4 could if speak to it intelligently, but there was such a
5 subject.

6 JUDGE PAUL AGRESTA: There's going to be, according to the
7 joint proposal, an evaluation of some kind and a pilot of some
8 kind of customer behavior. Is either the evaluation or the
9 pilot gonna look into this level of detail as to what's going on
10 on a month-to-month basis?

11 MR. MARTIN INSOGNA: Well, it could. There's -- there's
12 not a lot of detail around the evaluation at this point.

13 JUDGE PAUL AGRESTA: So it wouldn't violate the agreement
14 if the Commission gave a laundry list of things to add to your
15 evaluation or pilot?

16 MR. MARTIN INSOGNA: Not in my view, no.

17 JUDGE PAUL AGRESTA: Does Con Ed agree with that?

18 MR. WILLIAM ATZL: I guess it would depend on what's on
19 that laundry list and what it might cost to implement them, but
20 what you're saying to look at bill comparisons on a
21 month-to-month basis, I don't think that would be a problem.

22 JUDGE PAUL AGRESTA: Okay. On Page 92 it proposes that
23 there be some kind of a calculator created. How is that going
24 to deal with this monthly bill issue that I've raised?

25 MR. MARC RICHTER: I apologize, Your Honor; can you repeat

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the question for Mr. Atzl?

JUDGE PAUL AGRESTA: On Page 92 of the joint proposal it talks about some kind of a web-based bill calculator for customers to figure out what their bills might be if they shifted to voluntary time of use, and I'm wondering how is the calculator going to deal with the monthly bill issues? Is it going to be a monthly bill calculator? Is it going to be an annual calculator? How is it going to explain to customers they really need to save in the summertime if they want it to work?

MR. RICH MCKNIGHT: I haven't seen the design of this calculator yet, but it's intended to help inform a customer. Currently we have a checklist for a customer to answer the questions in which helps them to make a broad based decision whether they should try time of use rates. I envision this being more detailed, talking about shifting load as opposed to being very generic, but I have not seen what it looks like yet.

JUDGE PAUL AGRESTA: Okay. Does staff have any further information on that?

MR. MARTIN INSOGNA: We also have not actually seen the design of the calculator, but my expectation was that it -- it wasn't gonna be a -- it wasn't gonna reach the level of detail of customer inputting actual monthly usage. It would -- it would be more of an illustrative example for customers to understand how much usage would have to shift to off peak

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2 periods to break even or save compared to a flat rate bill.

3 JUDGE PAUL AGRESTA: Wouldn't it be more valuable if the
4 customer could put in their own usage for the last few months
5 and compare it to what their bill was?

6 MR. RICHARD MCKNIGHT: In trying to make a determination of
7 what was peak and what was off peak, you'd have to make that
8 evaluation of the metering to give them that information.

9 MR. MARTIN INSOGNA: The customer would be putting in their
10 own information. That's the point of having a bill calculator,
11 but.

12 JUDGE PAUL AGRESTA: So the customer would have to
13 guesstimate how much they could shift?

14 MR. MARTIN INSOGNA: Yes.

15 MR. RICH MCKNIGHT: Correct.

16 JUDGE PAUL AGRESTA: Why does the customer have to stay on
17 the voluntary time of use rate for one year?

18 MR. WILLIAM ATZL: One year is important for both delivery
19 and the commodity perspective. As Mr. Insogna pointed out, the
20 winter delivery rates are lower than the summer as well, so you
21 have the same potential for gaining compared to conventional
22 rates, so the customer could switch to the time of use rate for
23 winter months and then switch off in summer months.

24 JUDGE PAUL AGRESTA: They have a different delivery rate in
25 the winter for time of use as opposed to regular customers?

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2 MR. WILLIAM ATZL: They have a different winter rate as
3 compared to the summer rates. The winter rates are lower than
4 summer.

5 JUDGE PAUL AGRESTA: Yes, isn't that true for all
6 customers?

7 MR. WILLIAM ATZL: Yes.

8 JUDGE PAUL AGRESTA: Why would it matter?

9 MR. WILLIAM ATZL: There's just more -- there's more of a
10 difference in time of use, so typically time of use rates
11 require one year term of service.

12 JUDGE PAUL AGRESTA: So if I'm a time of use customer and I
13 use power at the same percentage on peak/off peak as the class
14 average, I would pay a higher or a lower delivery rate than the
15 regular customer?

16 MR. WILLIAM ATZL: Over the course of the year you would,
17 but seasonally you would be higher or lower.

18 JUDGE PAUL AGRESTA: So some months I'm a time of use
19 customer, some months my delivery charge is gonna be higher than
20 the typical customer?

21 MR. WILLIAM ATZL: Yes.

22 JUDGE PAUL AGRESTA: So in order to beat that, I'm gonna
23 have to move a lot more usage?

24 MR. WILLIAM ATZL: Well, you also have to view how you're
25 doing on time of use over the course of twelve months.

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2 JUDGE PAUL AGRESTA: So the whole program really only holds
3 up if you look at the annual bill and not the monthly bill?

4 MR. WILLIAM ATZL: That's right. It really should be
5 viewed on a twelve month basis.

6 JUDGE PAUL AGRESTA: Does the price guarantee include the
7 added cost of the interval meter?

8 MR. WILLIAM ATZL: It does. It includes the total bill.
9 It's -- technically it's not an interval meter. It's a meter
10 that just measures the time of use time periods.

11 JUDGE PAUL AGRESTA: That's not interval?

12 MR. WILLIAM ATZL: I don't know if that makes any
13 difference.

14 JUDGE PAUL AGRESTA: Sounds like an interval to me, but.

15 MR. WILLIAM ATZL: Okay.

16 MR. MARTIN INSOGNA: There is a higher monthly cost
17 associated with that meter, and staff's expectation is that it
18 appears to be a --

19 JUDGE PAUL AGRESTA: So you're not subtracting the cost of
20 the meter out and only guaranteeing the rest of the bill?

21 MR. MARTIN INSOGNA: Correct. It's not being subtracted
22 out.

23 JUDGE PAUL AGRESTA: How is it possible to do an evaluation
24 of customer behavior for customers that are subject to the price
25 guarantee? Doesn't that skew the results? In other words, if

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I'm on a price guarantee if I don't shift my usage, there's no consequence to me, whereas if I'm not on a price guarantee, you get a real test of, you know, the first month that I don't shift my usage and I see my bill and go oh, I need to do something, so doesn't that price guarantee kind of water down your ability to evaluate performance?

MR. MARTIN INSOGNA: It could, but since it is a comparison that's done on an annual basis, the customer would be refunded any amounts until the year is over, so when they get that first bill, they're gonna have the same impact as a customer who doesn't have a price guarantee. They're gonna have to wait eleven more months if they've paid more of a voluntary time of use rate, so I think on a month-to-month basis as they see those bills and they understand that when they use electricity, it does have an impact and they can influence their total bill cost by shifting usage to off peak periods. Our belief is that they will adopt those behaviors and at the end of the year they'll save money. The reason to have the price guarantee is not to hold them harmless so they don't change their behavior. It's to decrease the obvious concern and fear that customers have of a time of use rate so that they'll give it a try.

JUDGE PAUL AGRESTA: Do you know of any scholarly journal that has addressed this issue as to the validity of price behavior when you're under a price guarantee?

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MR. MARTIN INSOGNA: I'm not personally familiar with -- with anything in the literature that directly addresses that question.

JUDGE PAUL AGRESTA: Are there any other instances where the Commission requires someone to stay on a rate for one year?

MR. MARTIN INSOGNA: I'm sorry?

JUDGE PAUL AGRESTA: Are there any other instances where the Commission requires a customer to stay on a rate for a minimum of one year once they get to that rate?

MR. MARTIN INSOGNA: There has been other instances. I can think of the fixed price option that was offered by New York State Electric and Gas several years ago where that -- that rate required the customer to commit and stay on the rate for one year.

JUDGE PAUL AGRESTA: Didn't the Commission later decide that that was not a good idea?

MR. MARTIN INSOGNA: The Commission later decided that fixed price option wasn't a good idea, but not because of the one year guarantee. It had other problems.

Your Honor, I just want to go back and expand on my answer a little bit. I'm not aware of any literature that reflects how customers would behave in the face of a price guarantee as opposed to without one. We're certainly aware of surveys and customer opinions that have indicated that customers are

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2 reluctant to take a time of use rate and that a price guarantee
3 would be an attractive feature for them, would make them more
4 likely to take it. That literature is out there.

5 JUDGE PAUL AGRESTA: Do you have any customers who would
6 not be subject to the price guarantee who could be the ones that
7 you would use for the evaluation purposes?

8 MR. MARTIN INSOGNA: Well, since the -- the -- the price
9 guarantee would only be extended to new owners of electric
10 vehicles, there would be a controlled group instances of the
11 other customers on a voluntary time of use rate who don't have
12 electric vehicles, and one might argue that the fact that those
13 households purchased an electric vehicle might make them
14 statistically different from the overall sample, at least would
15 provide some control group by which you could judge those
16 results.

17 JUDGE PAUL AGRESTA: I'm assuming based on your earlier
18 answers that the evaluation is not yet scoped out, so you don't
19 know whether or not that's going to happen or not, control
20 group?

21 MR. MARTIN INSOGNA: Well, the control group certainly
22 exists and, again, that could be added to the laundry list --

23 JUDGE PAUL AGRESTA: That's what I'm saying, yeah.

24 MR. MARTIN INSOGNA: -- and made a feature, yes.

25 JUDGE PAUL AGRESTA: Alright, let's go on to another topic.

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MR. WILLIAM ATZL: Your Honor, I just want to clarify something because I'm not sure it's been recognized.

When we were discussing this evaluation, that evaluation pertains to the pilot program described on Page 75.

JUDGE PAUL AGRESTA: Okay, so it's more limited than the general discussion we just had with --

MR. WILLIAM ATZL: That's right.

MR. KEVIN LANG: Your Honor, Kevin Lang for the City. I would note in followup to Mr. Insogna's and Mr. Atzl's comments that already in the record as Exhibit 942 is a portion of the company's response to the VTOU analysis. The discovery question was PCS 532. It was a multipart question and one part of it is in the record as Exhibit 942.

JUDGE PAUL AGRESTA: Thank you. Okay, we're gonna move to another topic. Okay, for the purposes of these questions I want to make a distinction between reconciliations and adjustments, okay. So for the purpose of these questions, reconciliations are things that occur out of period; in other words, the impact of a variant gets deferred to the end of the rate plan, as opposed to an adjustment, which is something that gets funneled through the mysterious adjustment clause every month or whenever, okay. So does everybody understand what I'm talking about?

Okay, so there are many instances of reconciliations in the

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proposed rate plan; is that correct?

MR. KEVIN HIGGINS: That's correct.

JUDGE PAUL AGRESTA: And there were many instances of reconciliations in the prior rate plan; is that correct?

MR. KEVIN HIGGINS: Yes.

JUDGE PAUL AGRESTA: What was the magnitude of credit due to customers, just very roughly, coming out of the prior rate plan?

MR. KEVIN HIGGINS: Your Honor, we're just talking about the electric operation?

JUDGE PAUL AGRESTA: Just electric only.

MR. KEVIN HIGGINS: What was the magnitude of the impact of what the credits -- what revenue effect that would have on customers?

JUDGE PAUL AGRESTA: If you added up all the reconciliations up and down and you came up with a net credit that was due customers, what was the total amount, in rough numbers?

MR. KEVIN HIGGINS: Well, some of the credits were used, I think it was discussed earlier, some of the credits were used in the prior case, surcharge. I don't have that -- I don't have that --

JUDGE PAUL AGRESTA: Give me, is it in the millions, tens of millions, hundreds of millions?

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2 MR. RICHARD KANE: Your Honor, I think if you refer to
3 Appendix 4, that shows the amortization of credits and debits,
4 and the first page of Appendix 4, which show that each year
5 there's a total of \$205,000,000, so in total it was 600 million
6 dollars of credits. That would defer as part of the prior rate
7 plan, and as Mr. Higgins indicated, there was roughly
8 \$135,000,000 that was passed back to customers as part of case
9 E-120008.

10 JUDGE PAUL AGRESTA: So the credits are in the hundreds of
11 million dollars in the last rate plan for what I've defined as
12 reconciliation?

13 MR. RICHARD KANE: Yes.

14 JUDGE PAUL AGRESTA: Alright. Now in this rate plan when
15 we get to the low income issues, you're proposing an adjustment
16 to the -- a 50 cent adjustment to the amount of money that's
17 given as a low income credit to customer, if it turns out that
18 the number of customers eats up the target budget; is that
19 correct? It's on Page 103.

20 MR. MARTIN INSOGNA: So the -- the budget for the program,
21 for the discount portion of electric low income program, is 47.5
22 million. It's designed to serve the current number of
23 participants, which is about 417,000, and in this joint proposal
24 we proposed that the monthly discount amount would be increased
25 from its current level of 850, by a dollar to 950. That would

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2 stay the same but the discount amount wouldn't change.

3 JUDGE PAUL AGRESTA: For rate year one it stays the same?

4 MR. MARTIN INSOGNA: Rate year one.

5 JUDGE PAUL AGRESTA: In rate year two what happens?

6 MR. MARTIN INSOGNA: As long as the budget stays within
7 plus or minus 10 percent of that 47.5 million, and I guess
8 that's either between 42.8 or 52.2, nothing would happen. Since
9 the discounts would stay the same, the only thing that would
10 change potentially would be the number of customers who were
11 enrolling that became more than 417,000 or less. If it reached
12 the point where either of those tolerance was exceeded, then the
13 amount of the discount would be adjusted by a maximum of 50
14 cents and only so much as is required to bring it back within
15 the dollar. So if it went up to 55,000,000, say for example,
16 only so much adjustment would be applied as to bring it down to
17 52.2.

18 JUDGE PAUL AGRESTA: Okay, now this adjustment, I think,
19 can be fairly characterized as a legacy from a prior rate plan;
20 would you agree with that?

21 MR. MARTIN INSOGNA: There was a similar mechanism in the
22 existing rate plan. The tolerance band was 5 percent as opposed
23 to 10 percent, so the tolerance band has been expanded and the
24 amount of the adjustment which was also a maximum of 50 cents,
25 but the adjustment would be applied up to the amount that would

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be required to bring it back down to the target budget level, which in the current rate plan is 38.25 million.

JUDGE PAUL AGRESTA: In the prior rate plan if the target budget was met, the company was supposed to stop enrolling additional customers for a low income discount; is that correct?

MR. MARTIN INSOGNA: That is not correct.

JUDGE PAUL AGRESTA: What were they supposed to do?

MR. MARTIN INSOGNA: They are supposed to enroll as many customers as the matching process indicates are participating in one or more of the qualifying programs. There is no cap on enrollment. No one is ever shut out of the program. Under the existing program if the -- if the enrollment causes the budget to exceed its target by 5 percent, then the amount of the discount is adjusted, but no one is kept out of the program, and that remains true under the proposed program as well.

JUDGE PAUL AGRESTA: Okay. What justifies singling out the low income program for this kind of an adjustment in the low income discount when you consider all of the other types of reconciliations that are in these rate plans that have resulted in hundreds of millions of out-of-period adjustments? Why is it important that for the low income program we draw a line and that we have to adjust the discount rate up or down, whereas in every other thing that we're reconciling, we don't have to draw such a line?

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MR. MARTIN INSOGNA: I think the -- the simple reason is because unlike many other expenses that are or costs that are reconciled, the low income program essentially represents a direct subsidy from one set of customers to another, from nonparticipants in the low income program to the participants. So it's, first of all, a cost that's completely outside the company's control because they don't have any control over the company. Customers are eligible in any given year, and secondly because it is -- it's directly a subsidy from one set of customers to another. The -- the respect for the impact of the nonparticipating customers furnishes the reason for having an unusual feature to the -- to the low income budget that applies a little bit of cost control. I might also add that this program is -- is very unique in the state because it does reach such a wide range of customers. Most other programs in the state only serve HEAP recipients and that's all. This is the only program that serves all comers from a wide -- wide range of qualifying programs and because the magnitude of that population is unknown and varies widely, the signatory parties believe that there was a sufficient reason to apply some cost control.

JUDGE PAUL AGRESTA: You have a reconciliation for property taxes. The magnitude, I'm guessing, is gonna be a lot higher than this magnitude of this low income. The other customers are eventually gonna have to pick up those costs. Those customers

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2 don't care whether the end cost is from property taxes or low
3 income program or from any other program. I don't really
4 understand your justification as to why you have to draw the
5 line in the sand on this program. Does Con Ed have a different
6 explanation than we just heard from Staff?

7 MR. MARC RICHTER: Can I confer, Your Honor?

8 JUDGE PAUL AGRESTA: Yes.

9 (Whereupon, a brief recess was taken.)

10 JUDGE PAUL AGRESTA: Are we ready to proceed?

11 MR. RICH MCKNIGHT: Your Honor, generally we agree with
12 Mr. Insogna's comments. The only clarification I want to do
13 make, there is a 10 percent ban that was referred to, and the
14 cap is really not a cap because in the event that a significant
15 number of customers were added to the program, the maximum
16 reduction for each customer is only 50 cents, so you would still
17 have a significant increase which more than offsets the 50 cent
18 reduction per customer, so that's a firm cap.

19 JUDGE PAUL AGRESTA: So how worthwhile is a 50 cent
20 adjustment amount at that point?

21 MR. RICH MCKNIGHT: I think that was maximum we wanted to
22 pursue in this proceeding.

23 JUDGE PAUL AGRESTA: It's true that staff and Con Ed both
24 in their initial cases didn't want to increase the amount for
25 low income funding; isn't that correct?

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2 MR. RICH MCKNIGHT: That's correct.

3 JUDGE PAUL AGRESTA: Mr. Insogna?

4 MR. MARTIN INSOGNA: Yes, that was our filed testimony.

5 JUDGE PAUL AGRESTA: So as between Con Ed and Staff, it's
6 hard to characterize this proposal as a settlement amount
7 between adversarial parties; isn't that correct?

8 MR. MARTIN INSOGNA: Well, the settlement includes other
9 parties besides the Company and Staff.

10 JUDGE PAUL AGRESTA: As to between Con Ed and Staff,
11 though, it's not really a settlement of adversarial positions
12 that you had?

13 MR. MARTIN INSOGNA: Except to the extent that the
14 settlement reflects a result that departs considerably from our
15 litigated position in terms of the amount of funding that are
16 being provided, the size of the discount and so on.

17 JUDGE PAUL AGRESTA: How crucial an element is this part of
18 the joint proposal if I recommend to the Commission that they
19 disallow this portion? Does that bring us back into having to
20 blow up the whole settlement?

21 MR. RICH MCKNIGHT: When you say disallow the portion, I
22 don't --

23 JUDGE PAUL AGRESTA: I'm talking just about the 50 cent
24 adjustment part of the low income discount program. How
25 important is this to the parties to sign a joint proposal?

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2 MR. MARC RICHTER: Could we confer, Your Honor?

3 JUDGE PAUL AGRESTA: (Nodding).

4 (Whereupon, a brief recess was taken.)

5 MR. BOB MUCCILO: So agreeing that it's a relatively minor
6 revenue requirement or issue here with respect to the JP, we do
7 have concerns with carving out a single item and continuing to
8 respect the views of the other parties in terms of what their
9 thoughts and opinions may be on this issue. So we would have
10 concern of carving out this one element and changing the JP for
11 what we, the parties, have agreed to. Recognizing it is a
12 relative immaterial item, we do have concerns about carving out,
13 making a separate exception and make changes to the JP from what
14 the parties had been -- had agreed to.

15 JUDGE PAUL AGRESTA: Okay, staff?

16 MR. MARTIN INSOGNA: The staff, as a signatory party, we're
17 committed to support the joint proposal in its entirety and all
18 its provisions, including this one. Your Honors certainly can
19 recommend to the Commission that Commission act otherwise, and
20 the Commission can do whatever it does. You know, I don't think
21 we would view this particular provision as a deal breaker. On
22 the other hand, you know, the potential rate impacts are
23 significant of nonparticipating customers, and they're not --
24 you know, it's not just a deferral that would have to be
25 collected later because these budget over or under collections

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2 are put right through on the RDM, so there would be many impacts
3 for the customers, and that -- that would be the basis for our
4 concern.

5 JUDGE PAUL AGRESTA: Okay, thank you.

6 MR. KEVIN LANG: Your Honor, excuse me. Kevin Lang, on
7 behalf of the city. I know this is an examination of staff and
8 the company, but there were many parties to the joint proposal,
9 and the settlement guidelines speak to the interests of all
10 parties and the litigated result of all parties, and while this
11 issue may not show a difference between the staff and the
12 company's positions, if you look at the positions of all
13 parties, it's clearly within the litigated outcome, so I think
14 it's relevant to look at all parties' positions, not just
15 staff's and the company's.

16 JUDGE PAUL AGRESTA: Okay, thank you. At this time our
17 questions are generally done. What we're gonna do now is we're
18 gonna ask the Con Ed panel and the Staff panel to respond to
19 PULP's presentation, and we're gonna how a little leeway by
20 letting an attorney for Con Edison and an attorney for staff to
21 sort of direct them through that response. This is the only
22 opportunity we're gonna get to get into the record your response
23 because we're not anticipating briefs, but I do want you to keep
24 it short and to the point.

25 So Mr. Richter, if you can go first, please, or whoever

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you're going to designate.

MR. MARC RICHTER: Your Honor, I'm gonna defer to Mr. Kramer, the company and staff.

JUDGE PAUL AGRESTA: You'd rather have staff go first?

MR. STEVEN KRAMER: Right.

JUDGE PAUL AGRESTA: Proceed, Mr. Kramer.

MR. STEVEN KRAMER: Thank you, Your Honor.

DIRECT EXAMINATION BY

MR. STEVEN KRAMER:

MR. STEVEN KRAMER: Panel, if you can turn your attention to Miss Brockway's testimony, Page 21, Line 4. Does the panel have an opinion on Miss Brockway's proposal to approve Medicaid as a criterion for the electric low income program? I'm sorry, I have that reverse. Instead of being on Page 21, Line 4; it's actually on Page 4, Line 21.

MR. MARTIN INSOGNA: Staff's main concern with the idea of Medicaid as a qualifying program is that Medicaid is more than just an income or means test for eligibility. It also considers the nature and extent of a consumer's medical bills or medical needs, and while that might be a fine way to test whether an individual is in need of Medicaid or assistance in paying medical bills, it's not necessarily a good indicator of whether a customer needs energy assistance.

Miss Brockway's own testimony reflects examples where

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2 customers earned upwards of 224 percent of the federal poverty
3 level and qualify for Medicaid. There are certainly other
4 consumers, other customers of the company who earned 224 percent
5 of the federal poverty level for a family of four; that would be
6 upwards of \$40,000, and it doesn't seem reasonable, unless
7 you're gonna serve all the customers who are in that income
8 bracket with a low income discount, to single out customers who
9 may be receiving Medicaid.

10 MR. STEVEN KRAMER: Thank you. Turning to Page 5, Line 5
11 of Miss Brockway's testimony, there she indicates that Medicaid
12 is an eligibility deferring program for low income rates for
13 other utilities. Do you have any response to that, to that
14 particular piece of testimony?

15 MR. MARTIN INSOGNA: Yes. In this case Miss Brockway
16 specifically mentions the Key Span program, and there are a
17 couple of other programs in the state that also consider
18 Medicaid as a qualifying program; however an important
19 distinction between those programs and Con Edison's is that
20 those programs are all capped in either enrollment or budget or
21 both. The Key Span program in the Brooklyn Union territory is
22 capped at 70,000 customers and in the Long Island territory it's
23 capped at 30,000 customers. So when that -- when those
24 enrollments are reached, no one else is allowed in the program.
25 Con Ed's program, as we just discussed in some of the answers to

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the judge's questions, is substantially different than most programs, in that it's not a capped enrollment. Everyone who's deemed eligible is allowed in.

MR. STEVEN KRAMER: Thank you. Turning now to Page 7, Line 20 of her testimony, Miss Brockway's testimony, there she discusses the impact of Medicaid on electrical income enrollment. Does the panel have an opinion on why it's proper to exclude those receiving Medicaid from the program?

MR. MARTIN INSOGNA: I -- I think the -- the reason to exclude them would be, you know, as -- as just discussed, Medicaid might be a good indicator of needed assistance to pay medical bills. It's not necessarily a good indicator of needing energy assistance. What Miss Brockway discusses in this particular part of her testimony is a -- an apparent inconsistency in the litigated testimony submitted by staff and, perhaps other parties as well, regarding what the potential impacts would be of adding Medicaid D to the program or electric program or removing it from the gas program. I don't think the inconsistency Miss Brockway sees is -- is really there. The two processes would be -- would be quite different; first in that the -- the gas program is much smaller than the electric program. So whatever percentage of customers who are eligible to receive the gas discount solely on the basis of their receipt of Medicaid, whether it's 5 percent or 10 percent, whatever that

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2 percentage is, if that same percentage was applied to the
3 electric program, it just simply results in a much larger number
4 of customers being added to the program.

5 The second thing is that for the gas program, if Medicaid
6 were to be withdrawn, staff's proposal, which is based on our
7 understanding that a large majority of those customers would be
8 eligible for another qualifying program if they would only go
9 and apply for it, would be to notify those customers that if
10 you're getting this discount solely on the basis of Medicaid, go
11 see if you qualify for food stamps or for one of the other
12 qualifying programs. If you don't do, continue to receive the
13 discounts, so our belief was that the number of people who would
14 be kicked off the program if gas -- if Medicaid was withdrawn as
15 a gas qualifying program would be very small, whereas the number
16 of customers who might be added to the electric program if
17 Medicaid was extended as a qualifying program, for that program
18 could be quite large.

19 MR. STEVEN KRAMER: As you mentioned earlier --

20 JUDGE PAUL AGRESTA: Mr. Kramer?

21 MR. STEVEN KRAMER: Yes.

22 JUDGE PAUL AGRESTA: A lot of this so far has been stuff
23 that you already are aware of in the record. Some of the
24 stuff's already been discussed in prior testimony and prior
25 hearings. Can you try to just limit, just focus on new stuff

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raised by the PULP proposal?

MR. STEVEN KRAMER: Okay. Fair enough, Your Honor. I think I can do that in no problem. I have another question for you, panel.

On Page 19 Miss Brockway indicates that she believes that a HEFPA compliance metric should be included in the customer service standards. Can you tell us what you think about that proposal? I believe it's a new proposal.

MR. MARTIN INSOGNA: Yes. My first comment would be that in -- in an important sense the company is already subject to a HEFPA compliance mechanism, but among other things the customer service performance mechanism includes a measure of the company's customer complaints to the Commission, and complaints to the Commission can involve a number of different circumstances, including allegation by customers that the company has violated HEFPA, so in that sense the company's already subject to a mechanism that measures its HEFPA compliance.

The other thing that -- that I would point out is that the performance measures, whether they're customer service or reliability, are measures of the quality of the -- of the company's service, and they're important measures. I can't think of another measure that simply measures the company's compliance with law or with the rules. We regard compliance

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2 with the law and -- and with the Commission's rules as being a
3 given. The Commission has enforcement powers with respect to
4 Public Service law. It has powers to assess penalties under
5 section 25A under Public Service law which was recently
6 expanded. We think the Commission has all the power and the
7 authority that it needs to enforce compliance with HEFPA and a
8 service performance mechanism such as we have for a call answer
9 rate or for the number of outages in a given year is not needed.

10 MR. STEVEN KRAMER: Thank you. Panel, PULP's opposition
11 indicates that regarding the ROE that is proposed or the two
12 ROEs proposed in the joint proposal, that the Commission should
13 not actually adopt those, but because they are higher than the
14 litigated ROEs that were recommended by staff proposed -- excuse
15 me, recommended by staff. Can you indicate or explain what your
16 position is on that matter, that issue?

17 MR. CRAIG HENRY: Yes. The PULP opposition seems to
18 suggest that because there's no testimony supporting the either
19 the 92 or the 93 for the -- for these various proposals, that
20 they should be rejected. I just wanted to point out that in our
21 testimony, my testimony in particular, staff's ROE was 87 at the
22 time, and I mentioned that the Commission when it approved new
23 rates for the company, that it ought to take into consideration
24 the current economic climate. At the time of the joint proposal
25 staff did its due diligence, updated its methodology and

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2 determined that the ROE, the base ROE had increased, in this
3 particular case, up to 8.8. We also mentioned in our -- our
4 testimony that it's not unusual for joint proposals in New York
5 to contain stale premiums or -- which -- which encompass both
6 the -- the financial risk and the business risk of the plans
7 anywhere from 30 to 50 basis points. So I just point out that
8 the 92 and the 93 are within those expectations, and so
9 basically, as we've indicated in our -- in our statement in
10 support, that the plan reasonably balances investor expectations
11 and it generally reflects staff's methodology and has
12 traditional -- a traditional amount risk premium added to that
13 base ROE.

14 MR. STEVEN KRAMER: Thank you. Panel, in PULP's opposition
15 it indicates on Page 5 that the differential in revenue
16 requirements between staff's litigated position and the joint
17 proposal is solely ROE. Is that in fact correct?

18 MR. KEVIN HIGGINS: No.

19 MR. STEVEN KRAMER: I'm sorry, say that again.

20 MR. KEVIN HIGGINS: No.

21 MR. STEVEN KRAMER: It is not. What is not correct, that
22 the PULP indicates that on Page 5 or that the revenue
23 requirement is not -- the differential is not solely --

24 MR. KEVIN HIGGINS: The revenue requirement differential is
25 not solely attributable to the return on equities.

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2 MR. STEVEN KRAMER: Can you indicate what the other
3 components of the differential are just briefly? I mean you
4 don't need to quantify them, but.

5 MR. KEVIN HIGGINS: The -- there's a number of elements
6 that contribute to the -- the difference; labor costs,
7 healthcare costs, among -- among --

8 MR. STEVEN KRAMER: Okay, so a number of different inputs
9 other than just ROE, correct?

10 MR. KEVIN HIGGINS: Correct.

11 MR. STEVEN KRAMER: Thank you. Panel, are you familiar
12 with the criticism raised by PULP in its opposition to the joint
13 proposal that the delivery revenue requirements proposed in the
14 joint proposal do not really reflect freezes because commodity
15 costs could change?

16 MR. KEVIN HIGGINS: Yes.

17 MR. STEVEN KRAMER: Can you indicate why you're
18 characterizing, the staff is characterizing this as a revenue
19 requirement freeze?

20 MR. KEVIN HIGGINS: Yeah. Changes in commodity costs can
21 be temporary, and further the -- the Commission has no control
22 over changes in commodity costs. So what we're recommending
23 here is that the Commission set Con Edison's electric and gas.
24 The -- the criticisms were with respect to the electric and gas,
25 so for the Commission to set Con Edison's electric and gas

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delivery costs of service as opposed to -- and not -- regardless of whether commodity costs go up or what happens to commodity costs.

MR. STEVEN KRAMER: Thank you. That's it. No further questions.

JUDGE PAUL AGRESTA: Mr. Richter?

MR. MARC RICHTER: I just ask you one question.

DIRECT EXAMINATION BY

MR. MARC RICHTER:

MR. RICHTER: In response to the proposal by PULP is it for the Commission to consider just taking a decrease in rate year one as the only element of the proposal submitted to the Commission and just adopt a decrease and none of the other elements of the multiyear rate plan?

MR. BOB MUCCILO: Similar to my earlier comments on the low income discount program, this is a package deal. This is a joint proposal that balances many factors, and certainly I think, Your Honor, using your words, this is something that would blow up the rate plan in terms of a modification, so we strongly support the JP as is with the levelized rate increase for the two years for electric and three years for gas and steam, and that's an underlying opinion of this -- of this JP.

JUDGE PAUL AGRESTA: Anything else?

MR. MARC RICHTER: Your Honor, Mr. Atzl would just like to

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2 clarify one of his responses that he provided earlier to one of
3 your questions.

4 MR. WILLIAM ATZL: Yes, Judge Agresta, earlier in the
5 hearing you had asked about revenue allocation with regard to
6 electric and gas, if there were any classes other than NYPA for
7 which a deficiency would not be full eliminated, and I responded
8 yes, service classification Number 12, and then you then asked
9 what portion of the deficiency would remain at the end of the
10 rate plan, and my response was one third, and I misspoke; it's
11 actually one half. I just wanted to make sure you had the
12 correct information.

13 JUDGE PAUL AGRESTA: Thank you. Okay, Mr. Norlander, it's
14 your turn.

15 MR. GERALD NORLANDER: Thank you, Your Honor. I'm
16 Gerald Norlander for the Public Utility Law Project, and I have
17 some questions for the panels.

18 CROSS EXAMINATION BY

19 MR. NORLANDER:

20 MR. NORLANDER: First of all, if we were to assume that the
21 Commission were to approve the JP as proposed, in year one would
22 the filed tariffs reflect the 76.192 electric rate decrease
23 shown in the JP?

24 MR. WILLIAM ATZL: No, they would not.

25 MR. GERALD NORLANDER: So the filed tariffs would be

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roughly the same as they are today?

MR. MARCO PADULA: That's correct.

MR. GERALD NORLANDER: They would be collecting \$76,000,000 more per the revenue requirement for electric, approximately?

MR. MARCO PADULA: Yes.

MR. GERALD NORLANDER: And the answer would be that they would collect 54.602 million more than the revenue requirement for gas?

MR. MARCO PADULA: Yes, that's correct.

MR. GERALD NORLANDER: And is it your position that it's just and reasonable to charge the customers more in their rates than the revenue requirement?

MR. MARCO PADULA: Under this levelized rate plan, yes.

MR. GERALD NORLANDER: Now the company will over collect in year one total gas, electric and steam in the neighborhood of \$126,000,000; is that correct?

MR. MARCO PADULA: That's correct.

MR. GERALD NORLANDER: And the company will hold that money for consumers, correct, for their benefit ultimately?

MR. MARCO PADULA: Yes.

MR. GERALD NORLANDER: And what interest rate does the company pay on that over collected amount?

MR. KEVIN HIGGINS: So in the first rate year it will be approximately 3 percent and then each year thereafter it will

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2 adjust to whatever the Commission decides the other customer
3 capital rate is for that rate year.

4 MR. GERALD NORLANDER: What is that 3 percent interest
5 based upon?

6 JUDGE PAUL AGRESTA: Please face the microphone when you
7 talk.

8 MR. CRAIG HENRY: The panel -- the Commission has a
9 proceeding annually where there's a specific methodology that it
10 prescribes. The panel is not familiar with this specific
11 methodology that the Commission uses, but I'm sure it's
12 available.

13 MR. RICHARD KANE: I believe it's a combination of 5 and 10
14 year bonds yielding to waiting.

15 MR. GERALD NORLANDER: Would the panel agree that there are
16 many customers who are behind in their payments more than sixty
17 days and paying late charges?

18 MR. MARTIN INSOGNA: It depends on how you define many, I
19 guess, but I'll accept that -- yes, how's that.

20 MR. GERALD NORLANDER: Well, would you accept that there
21 are more than 200,000 a month who are more than sixty days late
22 on their bill?

23 MR. MARTIN INSOGNA: Yes.

24 JUDGE PAUL AGRESTA: For all the witnesses it's not
25 necessary, even though it seems polite, to turn and face the

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2 person asking questions. It's more important you speak into the
3 microphone, okay.

4 MR. GERALD NORLANDER: And Panel, could you tell us what
5 the interest rate is that customers pay on late charges?

6 MR. MARTIN INSOGNA: It's 1.5 percent monthly.

7 JUDGE PAUL AGRESTA: And if we apply some mathematics to
8 that, it's 18 percent a year?

9 MR. MARTIN INSOGNA: I believe that's correct, yes.

10 MR. GERALD NORLANDER: The company receives roughly
11 \$30,000,000 a year in late payment charges from customers; is
12 that correct?

13 MR. RICHARD KANE: Yes. The amount is shown on Appendix 5
14 on Page 2 of 2.

15 MR. GERALD NORLANDER: And that amount is?

16 MR. RICHARD KANE: 30,000,000 -- the projected amount is
17 30,370,000.

18 MR. GERALD NORLANDER: I have another question. The
19 company has a revenue decoupling mechanism, correct, in its
20 plan?

21 MR. MARCO PADULA: Yes.

22 MR. GERALD NORLANDER: Does the revenue decoupling
23 mechanism true up for variations in late payment charge revenue?

24 MR. MARCO PADULA: No, it does not.

25 MR. GERALD NORLANDER: So if the company makes more on late

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2 payment charges, it gets to keep it?

3 MR. KEVIN HIGGINS: Yeah, it -- yes.

4 MR. GERALD NORLANDER: A few other questions about the
5 revenue --

6 MR. RICHARD KANE: If I could also, if there's lower late
7 payment charge revenues, the company absorbs it. The rate
8 allowance is based on historic relationship of historic late
9 payment charges to historic revenues. That develops the factor
10 that's applied to the projected revenues. The company is at
11 risk either to -- to lose money or to make a little bit on the
12 actual level of late payment charges. The other -- the other
13 problem associated with that is that quite often uncollectible
14 do reflect a good portion of write-offs of late payment charges.

15 MR. GERALD NORLANDER: In what other areas can the company
16 grow its revenues without being reconciled through the RDM?

17 I can be more specific if that would help. Let's say on
18 the electric revenue side can the company make more money if the
19 company opens a server farm and starts using a lot of
20 electricity to start running data servers, for example?

21 MR. MARC RICHTER: Sorry, could you repeat that question or
22 clarify?

23 MR. GERALD NORLANDER: If the company increases sales to
24 new customer significantly, would that revenue be reconciled
25 through the RDM, and if so how?

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2 MR. RICHARD KANE: It does sound like non-utility --

3 MR. MARC RICHTER: To clarify the question, you're asking
4 whether or not the company takes on, adds a material new
5 customer that operates a server farm and gives the company
6 significant additional revenue?

7 MR. GERALD NORLANDER: Yes.

8 MR. MARC RICHTER: So I'll defer to Mr. Atzl. Depending on
9 which service classification that falls under, it would be
10 whether or not that would be captured by the revenue of the
11 company.

12 MR. WILLIAM ATZL: That's right. It depends on --

13 JUDGE PAUL AGRESTA: You have to use the microphone.

14 MR. WILLIAM ATZL: It would depend on what class of service
15 they take, whether or not it's a class that's included or
16 excluded from the RDM.

17 MR. GERALD NORLANDER: Is it possible that a large server
18 farm using large amounts of electricity increasing the company's
19 revenues could be excluded in one of those service classes?

20 MR. WILLIAM ATZL: Yes.

21 MR. GERALD NORLANDER: Turning to natural gas, are there
22 areas similar where new customers who switch from oil to gas for
23 their buildings would provide additional revenue to the company
24 that would not be included in the RDM?

25 MR. WILLIAM ATZL: The oil to gas conversion customers have

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2 been included in the RDM in this particular case. They were
3 previously excluded.

4 MR. GERALD NORLANDER: Are there other natural gas growth
5 revenue growths that would be excluded from the RDM?

6 MR. WILLIAM ATZL: There are.

7 MR. GERALD NORLANDER: What are those?

8 MR. WILLIAM ATZL: For instance -- for instance, the RDM
9 excludes customers taking service under the Excelsior jobs
10 program. It also would exclude interruptible customers.

11 MR. GERALD NORLANDER: So is it fair to say with respect to
12 both electric and gas service, that there are opportunities for
13 the company to grow its revenues under this plan?

14 MR. WILLIAM ATZL: Yes.

15 MR. GERALD NORLANDER: Now with regard to the revenue
16 requirement, does the joint proposal contain any austerity
17 adjustments that were previously included in the prior rate
18 plan?

19 MR. RICHARD KANE: The test year upon which the revenue
20 requirement was based included austerity adjustments, so that
21 would continue, but the actual level achieved during the test
22 year was carried forward.

23 MR. GERALD NORLANDER: So it's your testimony that the
24 joint proposal includes the effects of an austerity adjustment
25 still?

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2 MR. RICHARD KANE: To the extent they were reflected in the
3 tester, yes.

4 MR. GERALD NORLANDER: With regard to the item in the
5 revenue requirement for management variable pay, could you
6 confirm that that amount is 23.549 million for electric and
7 4.481 million for gas?

8 MR. RICHARD KANE: The amounts are shown on Appendix 8,
9 Page 1 of 4 and also on Appendix 9 Page 1 of 4, so I agree.

10 MR. GERALD NORLANDER: Are those the correct amounts that I
11 read?

12 MR. RICHARD KANE: Actually, the amount that's shown on
13 Page 8 Page 1 of 5, I'm sorry, is 21 million 4 -- I'm sorry,
14 \$24,119,000 -- I'm sorry. That's rate year two. Rate year one
15 is 23,549,000 -- for rate year one for the electric rate plan in
16 Appendix 8, Page 1 of 5 the management variable pay was
17 \$23,549,000.

18 JUDGE PAUL AGRESTA: Could you lower your microphone a
19 little bit?

20 MR. RICHARD KANE: On Appendix 9, Page 1 of 4, the
21 management variable pay is shown as \$4,481,000.

22 MR. GERALD NORLANDER: Thank you. And what happens in year
23 two?

24 MR. RICHARD KANE: The amounts go by the overall page
25 increase, less productivity. So for rate year two, the electric

1 Consolidated Edison Staff Panel

2 management variable pay number is \$24,119,000 and the associated
3 gas number is \$4,590,000.

4 MR. GERALD NORLANDER: So the total management variable pay
5 in the two year plan for electric is roughly 48 million dollars?

6 MR. RICHARD KANE: Over -- for calendar years 2014 and '15,
7 yes.

8 MR. GERALD NORLANDER: Was there a provision for management
9 variable pay in the prior rate plan?

10 MR. RICHARD KANE: It's been included in previous rate
11 plans. It was not in the prior rate plan.

12 MR. GERALD NORLANDER: And could staff explain why it was
13 included in this plan?

14 MR. MARTIN INSOGNA: The Commission in several prior rate
15 cases, but most notably in the last O&R Electric case, 11-E-0408
16 indicated its willingness to accept management variable pay
17 costs under certain conditions which the Commission outlined
18 most clearly and definitively in that O&R order and staff's
19 review of the company's submission in this case indicated to us
20 -- our conclusion was that the company had met the criteria that
21 the Commission set out, so we recommended that it be allowed in
22 rates.

23 MR. GERALD NORLANDER: Are the current rates unjust and
24 unreasonable because they don't include a variable pay
25 management pay?

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2 MR. STEVEN KRAMER: You know, objection, Your Honor. I
3 really don't see -- that's -- that's completely speculative.
4 You can ask that of a hundred people and get a hundred different
5 answers.

6 JUDGE PAUL AGRESTA: Let's pass on that question and move
7 on.

8 MR. GERALD NORLANDER: With respect to the ROE, Mr. Henry
9 testified in his direct testimony that there was no credible
10 evidence to support an upward adjustment from his 8.7 percent
11 recommendation; is that correct?

12 MR. CRAIG HENRY: Could you elaborate on your question?
13 I'm not sure what the question is.

14 MR. STEVEN KRAMER: A cite.

15 MR. GERALD NORLANDER: Page 42 of your corrected testimony
16 you stated, however, as I will elaborate later in my testimony
17 given the evidence that the company's collected business and
18 financial risks are less than that of either minor company
19 witness Hevert, proxy group, it is clear that there is no
20 credible evidence to support an upward adjustment based on any
21 of the reasons raised by company witnesses Sanders, Hevert and
22 Lapson. Have you changed your opinion?

23 MR. CRAIG HENRY: The question from my testimony which you
24 refer to the answer, the question is asking do you recommend an
25 adjustment to your 87 ROE, given Con Edison's superior credit

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2 quality vis-a-vis your proxy group, and the answer is in
3 reference to that question, there's a various -- there are
4 distinguishing characteristics between the proxy group and Con
5 Edison. Con Edison has a stronger credit quality, but despite
6 those differences, I found no reason for an upward adjustment
7 for a one year rate plan for Con Edison based upon its
8 difference in credit quality from that of my proxy group.

9 MR. GERALD NORLANDER: And since making that testimony, you
10 updated your 8.7 percent ROE recommendation?

11 MR. CRAIG HENRY: I -- I did update the methodology when we
12 were negotiating with the company in order to be able to
13 validate the reasonableness of the ROE that we would be agreeing
14 to.

15 MR. GERALD NORLANDER: Approximately when was that?

16 MR. CRAIG HENRY: In November.

17 MR. GERALD NORLANDER: And the result of that was an 8.8
18 percent recommendation?

19 MR. CRAIG HENRY: An 8.8 percent ROE for a one year rate
20 case.

21 MR. GERALD NORLANDER: For both gas and electric?

22 MR. CRAIG HENRY: And steam.

23 MR. GERALD NORLANDER: In making that recommendation, did
24 you follow the same methodology that you testified to
25 previously?

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2 MR. CRAIG HENRY: Yes.

3 MR. GERALD NORLANDER: And that methodology is the
4 methodology -- well, tell us what that methodology was, very
5 briefly.

6 MR. CRAIG HENRY: It's -- it's -- it -- it -- it's the DCF
7 methodology and the CAP-M methodology where there's a proxy
8 group of companies used for the DCF. It's essentially a two
9 stage growth rate. The CAP-M takes in similar economic data,
10 you know, most recent three months and it uses importantly
11 Merrill Lynch's quantitative profiles for an estimate of the
12 overall market return and then the DCF results and the CAP-M
13 results are weighted the two-thirds and one third, and the
14 result at the time we were negotiating was 8.8.

15 MR. GERALD NORLANDER: And the Commission has approved that
16 methodology in prior cases?

17 MR. CRAIG HENRY: The Commission has adopted that
18 methodology in its -- in its ROE determinations in litigated
19 cases, yes.

20 MR. GERALD NORLANDER: Now what is the approximate revenue
21 equivalent of a 10 basis point change in the ROE?

22 MR. CRAIG HENRY: I don't have the numbers at my -- at my
23 fingertips. There are --

24 MR. GERALD NORLANDER: Do you agree with our calculation
25 that the overall difference between the 8.7 and the JP proposal

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is approximately \$132,000,000?

MR. KEVIN HIGGINS: No, we do not.

MR. GERALD NORLANDER: Do you have another number for that calculation?

MR. RICHARD KANE: I think as Mr. Higgins indicated, that includes other adjustments that were made in the revenue requirements reflected in the joint proposal. It's not solely the ROE change.

JUDGE PAUL AGRESTA: Could somebody simplify this by just telling us how much 10 basis points is worth for each business unit?

MR. MARC RICHTER: Your Honor, I believe it's set forth in the JP on a footnote on Page 117.

JUDGE PAUL AGRESTA: Mr. Kane, could you read that into the record, please.

MR. RICHARD KANE: Footnote 67 on Page 117. Joint proposal indicates that for electric such amounts this is referring to 10 basis points are estimated to be 14.3 million for rate year one, 14.9 million for rate year two. For gas such amounts are estimated to be 2.9 million for rate year one, 3.2 million for rate year two and 3.6 million for rate year three. For steam such amounts are estimated to be 1.5 million for rate year one, 1.5 million for rate year two and 1.5 million for rate year three.

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2 JUDGE PAUL AGRESTA: Thank you.

3 MR. GERALD NORLANDER: Mr. Henry, you previously testified
4 for a straight percentage initially 8.7, now 8.8 for both gas
5 and electric. Can you explain why there's a different ROE for
6 electric and gas in this joint proposal?

7 MR. CRAIG HENRY: The -- the -- the term of the gas and
8 steam rate plan is three years and the term of the electric plan
9 is two years. The difference in the ROEs, at least in my view,
10 reflects the difference in the financial risk for the -- the
11 company being unable to reset its ROE for a longer period of
12 time for the gas and steam rate plans.

13 MR. GERALD NORLANDER: What accounts for the difference
14 between your 8.8 ROE and the 9 -- and the higher ROE that would
15 be allowed in the JP?

16 MR. CRAIG HENRY: Well, as we stated in the -- in the joint
17 proposal, it has to do with the combined financial and business
18 risk of the rate plans themselves.

19 MR. GERALD NORLANDER: What benefit do the customers get in
20 year one from paying rates based on a 9.2 and 9.3 percent ROE if
21 they just had a one year plan?

22 MR. STEVEN KRAMER: I'm sorry, can that question be
23 rephrased? I'm not even sure that was a question.

24 MR. GERALD NORLANDER: Yeah.

25 JUDGE PAUL AGRESTA: No, I understood it as a question.

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2 What benefit do the customers get in rate year one for a higher
3 ROE?

4 MR. CRAIG HENRY: Well, if -- for the -- the company's are
5 getting the benefit of no rate increases for electric for two
6 years and no rate increases for gas and steam for three years.
7 The -- the ROE properly reflects the added risk that, you know,
8 the company's investors are entitled to -- to fair compensation
9 for the capital they're putting up. They're tying their capital
10 up for longer periods of time. Customers are getting the
11 benefit of the company not being able to come back in and reset
12 its rates, so I think you really have to look at the -- the
13 terms of the rate plans. If we're setting rates for one year
14 and the cost of equity all else the same; nothing else changed
15 but the cost of equity went up considerably, customers in
16 subsequent years would be paying higher rates than they would be
17 under these joint proposals, so I believe the joint proposals
18 fairly strike a balance between the risk of rates going up and
19 the business risk, that increased business risk that the company
20 faces in these rate plans, and I think customers are benefitting
21 from that.

22 MR. GERALD NORLANDER: This is for --

23 MR. MARTIN INSOGNA: I guess, I'm sorry, Mr. Norlander. I
24 just wanted to add to that.

25 JUDGE PAUL AGRESTA: That was a really good answer. I'm

1 Consolidated Edison Staff Panel

2 not sure you have to add to it.

3 MR. MARTIN INSOGNA: Don't mess it up. I have nothing more
4 to add.

5 MR. GERALD NORLANDER: Turning to the issue of what is the
6 customer benefit of the two year and three year plan, if you had
7 a one year plan, you could reduce rates by 76 million electric
8 and 54.6 million gas, correct?

9 MR. CRAIG HENRY: You know, it's certainly the revenue
10 requirement for a one year rate case that we can see very
11 clearly that the numbers are negative. The parties believe that
12 there's a lot of value, and staff particular, a lot of value to
13 locking in the company's rates for a longer period of time.

14 MR. GERALD NORLANDER: Well, if you didn't lock them in,
15 then the company could file for new rates when?

16 MR. CRAIG HENRY: I believe the company has -- can file for
17 rates within eleven months of when their current rates are set
18 to expire.

19 MR. GERALD NORLANDER: So they could file as soon as a year
20 one rate, if the Commission set rates for one year, the company
21 could immediately file for a second year, correct?

22 MR. CRAIG HENRY: Well, approximately.

23 MR. GERALD NORLANDER: And you're assuming that the company
24 in the second year would be able to raise its rates?

25 MR. CRAIG HENRY: We believe -- we believe that because of

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the company's ongoing construction budget and the fact that interest rates are -- are, you know, historic -- at historically low levels, that there's a very, very high likelihood that rate increases are in the cards.

MR. GERALD NORLANDER: And you've assumed in this case that the rates would go up 123 million dollars -- 124 million for electric and about 39 million for gas, right, in year two?

MR. CRAIG HENRY: If that's what -- if that's how they're projected, yes.

MR. GERALD NORLANDER: And that's based on a historic test year for what period?

MR. RICHARD KANE: Again, the test year in the rate plan is the same for each of the years. It's just moving forward, and as Judge Agresta pointed out earlier, the largest component of the rate year two increase is property taxes for rate year two.

MR. GERALD NORLANDER: Okay. And I think one more question, in the -- the company has a market adjustment clause with 37 factors which contribute to an adjustment each month; is that correct?

MR. CRAIG HENRY: Month --

MR. GERALD NORLANDER: It's in Rule 26 of the company's tariff. If I could ask you to accept that subject to check?

MR. RICHARD KANE: We would accept that.

MR. GERALD NORLANDER: And that includes some items that

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2 can be rather large and can lead to adjustments from month to
3 month that have exceeded the year two increases, correct?

4 MR. RICHARD KANE: The company's not recommending any --
5 the joint proposal is not recommending any increase for rate
6 year two, so I -- it's keeping rates flat, so any increase would
7 be large.

8 JUDGE PAUL AGRESTA: What's the magnitude of the largest
9 average monthly adjustment in a year?

10 MR. RICHARD KANE: We don't know off the top of our head.

11 JUDGE PAUL AGRESTA: Is it over a hundred million?

12 MR. WILLIAM ATZL: In one month I doubt it.

13 JUDGE PAUL AGRESTA: Is it over 50 million?

14 MR. WILLIAM ATZL: I really don't know. I don't have the
15 information with me.

16 JUDGE PAUL AGRESTA: You should know. Okay, go ahead.

17 MR. GERALD NORLANDER: So just to follow up with staff, the
18 customers are not receiving assurance that their bills will be
19 -- that their rates will be frozen; is that correct, overall
20 total bill?

21 MR. KEVIN HIGGINS: What we indicated earlier,
22 Mr. Norlander, was that commodity costs are temporary, and what
23 we've established here are delivery rates. We haven't evaluated
24 changes in commodity costs. We're not recommending that the
25 Commission consider commodity costs in evaluating the joint

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proposal before it.

MR. GERALD NORLANDER: Thank you. Turning to the low income program, can you explain why the low income rate for natural gas allows customers who are eligible for Medicaid to qualify but the joint proposal would not allow the record customers, explain the difference why is there a difference between the two plans?

MR. STEVEN KRAMER: Yeah, you know what, that's been asked before. Let's move on, right.

JUDGE PAUL AGRESTA: Yeah, I believe Mr. Insogna gave a description as to why he thought that was the right thing to do.

MR. GERALD NORLANDER: Mr. Insogna, are you an economist?

MR. STEVEN KRAMER: Mr. Insogna has filed testimony in this proceeding. His CV is available to you. You should well know that he is not an economist.

JUDGE PAUL AGRESTA: Just answer the question, quickly, please.

MR. MARTIN INSOGNA: At Colgate University where I earned my bachelor of arts degree, I majored in philosophy and minored in economics. I believe that makes me a communist.

MR. GERALD NORLANDER: Thank you. You indicated that you believe that the shift of revenue responsibility from low income customers on low income rates to nonparticipating customers represented a subsidy of the low income customer; is that

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2 correct?

3 MR. MARTIN INSOGNA: That's -- that's a reasonable summary
4 of my statement on the matter, yes, sir.

5 MR. GERALD NORLANDER: Did you mean that in the sense of
6 the word subsidy as used in economics to reflect a -- a price
7 that is below the incremental cost of providing the service?

8 MR. MARTIN INSOGNA: Mr. Norlander, subsidies can take many
9 forms. Milk price supports, for example, a buy down the cost of
10 a gallon of milk, so the price that a consumer pays for a gallon
11 of milk doesn't necessarily represent the full cost of producing
12 that milk because some of that cost is paid for by taxpayers
13 through farm subsidies. In this case we're talking about
14 ratepayer subsidies. One set of ratepayers subsidizes the cost
15 of service that's enjoyed by another set of ratepayers, so in
16 that respect they are similar.

17 MR. GERALD NORLANDER: So you would say then that if you do
18 a subsidy from the general body of ratepayers from any service
19 class such as those in the industrial business development
20 classes, you have rate discounts or reduced rates, even though
21 those rates recover the incremental costs of serving those
22 customers?

23 MR. MARTIN INSOGNA: To -- to the extent that customers in
24 -- who receive economic development rates of various kinds are
25 paying a rate that's less than the rate that they would

1 Consolidated Edison Staff Panel

2 otherwise pay. That reduction in the rate is subsidized by
3 other customers who are bearing the company's revenue
4 requirement.

5 MR. GERALD NORLANDER: I think just a final question.
6 Going back to the over collection of revenues from customers, at
7 the end of year two there will be a credit in favor of the
8 customers for gas and electric, correct?

9 MR. KEVIN HIGGINS: Yes.

10 MR. GERALD NORLANDER: And so the plan provides that the
11 rates will deliberately over collect beyond revenue requirements
12 for years one and two that amount with no determination of what
13 that's for, correct?

14 MR. KEVIN HIGGINS: There's revenues generated under the
15 plan that will benefit customers in the future.

16 MR. GERALD NORLANDER: And my question was there's no
17 identifiable expense or use of that money, other than
18 generically for the benefit of customers; it would be banded by
19 the company for the benefit of customers?

20 MR. KEVIN HIGGINS: It's just the fallout of the -- the --
21 the revenue requirements in the proposals being made.

22 MR. GERALD NORLANDER: What are those totals again for
23 electric and gas that have been carried over after year two?

24 MR. STEVEN KRAMER: You know what, I think this has been
25 asked and answered.

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2 JUDGE PAUL AGRESTA: I put all those numbers on the record,
3 and I think if you could clarify, the intention is that there
4 will be a credit earned by customers that will continue to sit
5 in the bank and earn interest but will not be reflected in the
6 bills in the outward year; is that right?

7 MR. KEVIN HIGGINS: It will be -- could be available if the
8 Commission decides to offset -- in the event that Con Edison
9 doesn't file for rates.

10 JUDGE PAUL AGRESTA: But that requires future Commission
11 action that was not -- if the joint proposal continues as
12 written --

13 MR. KEVIN HIGGINS: Right.

14 JUDGE PAUL AGRESTA: -- there would be no adjustment in the
15 out rate year and that credit would just sit on the books
16 earning interest for customer benefit?

17 MR. KEVIN HIGGINS: Correct.

18 MR. GERALD NORLANDER: Could that money be used to reduce
19 bills during the two year plan?

20 MR. KEVIN HIGGINS: If -- if we were to do that, that would
21 create an additional revenue at the end of the rate plans.

22 MR. GERALD NORLANDER: What would the rates be at the end
23 of the rate plan? I thought they would be the same rates they
24 are today.

25 MR. KEVIN HIGGINS: Well, you're -- you're suggesting, I

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2 believe, to use that -- that credit to bring rates below zero,
3 and if you were to do that, you would need to make up to the
4 level of 40 -- for lack of 47.7 million, and the revenue need,
5 if you were to spread that credit equally or levelize it over
6 the two years, you're talking about rather than the company
7 needing its indicated cost of 47.776 million, it would need
8 approximately 66 or 67 million.

9 MR. GERALD NORLANDER: So the tariffs that will be filed
10 after approval of the joint proposal would reflect a rate
11 increase at the end of year two?

12 MR. KEVIN HIGGINS: Yes.

13 MR. GERALD NORLANDER: I have no further questions. Thank
14 you, Your Honor.

15 JUDGE PAUL AGRESTA: Thank you. Let's take a ten minute
16 break and then we'll go to the next witness.

17 MR. MARC RICHTER: Your Honor, during that ten minutes if
18 we could just confer with our panel to see if there's any
19 limited redirect?

20 JUDGE PAUL AGRESTA: It better be very limited because I
21 don't hear anything that I think needed any further
22 clarification, so we'll take a ten minute break.

23 (Whereupon, a brief recess was taken.)

24 JUDGE PAUL AGRESTA: If there's no redirect, let's just get
25 the next witnesses up here.

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2 MR. STEVEN KRAMER: There's no redirect.

3 JUDGE PAUL AGRESTA: We're on the record. The parties have
4 indicated there's no redirect for the initial panel. So
5 Mr. Norlander, if you could call the next witness, please.

6 MR. GERALD NORLANDER: Your Honors, this is Gerald
7 Norlander, from the Public Utility Law Project. I would like to
8 call as a panel of witnesses Nancy Brockway and William D.
9 Yates. Could we take the chair?

10 JUDGE PAUL AGRESTA: We'll go off the record for a minute.

11 (Whereupon, a discussion was held off the record.)

12 JUDGE PAUL AGRESTA: Are you ready to proceed?

13 MR. GERALD NORLANDER: Yes, we are.

14 JUDGE PAUL AGRESTA: If you could introduce the testimony,
15 please.

16 MR. GERALD NORLANDER: Will we be swearing witnesses?

17 JUDGE JULIA SMEAD BIELAWSKI: May I have the witnesses
18 stand, please.

19 MS. NANCY BROCKWAY: I've been sworn already.

20 MR. GERALD NORLANDER: No, not today.

21 JUDGE JULIA SMEAD BIELAWSKI: Do you swear or affirm that
22 the testimony you are about to give will be the truth, the whole
23 truth and nothing but the truth?

24 MS. NANCY BROCKWAY: Yes.

25 MR. WILLIAM D. YATES: Yes.

1 N. Brockway, W. Yates

2 JUDGE JULIA SMEAD BIELAWSKI: Do you adopt your pre-filed
3 testimony as your sworn testimony in these proceedings?

4 MS. NANCY BROCKWAY: I have some corrections.

5 JUDGE JULIA SMEAD BIELAWSKI: Your corrected pre-filed
6 testimony, do you adopt that as your sworn testimony?

7 MS. NANCY BROCKWAY: Yes.

8 MR. WILLIAM D. YATES: I have a couple of corrections.

9 MR. GERALD NORLANDER: Miss Brockway, do you have any
10 corrections to the testimony that was pre-filed for the review
11 of the joint proposal?

12 MS. NANCY BROCKWAY: Yes, I do. Turn to Page 24 of my
13 supplemental testimony.

14 MR. GERALD NORLANDER: And what are the changes there?

15 MS. NANCY BROCKWAY: First I would delete the entire Q&A
16 starting at Line 3, going through Line 18. It's an editing
17 error that appears in this text.

18 JUDGE PAUL AGRESTA: I'm sorry, could you repeat the page
19 again?

20 MS. NANCY BROCKWAY: 24.

21 JUDGE PAUL AGRESTA: Lines 3 through 18?

22 MS. NANCY BROCKWAY: 18.

23 JUDGE PAUL AGRESTA: Just cross the whole thing out?

24 MS. NANCY BROCKWAY: Yup.

25 MR. GERALD NORLANDER: And do you have any further

1 N. Brockway, W. Yates

2 corrections?

3 MS. NANCY BROCKWAY: Yes, I do. On the same page, the last
4 line, Line 23, the statement the three year term of 45 million;
5 it should be 54 million. Those are my corrections.

6 MR. GERALD NORLANDER: And Mr. Yates, did you file
7 yesterday an updated and corrected testimony regarding the joint
8 proposal?

9 MR. WILLIAM D. YATES: Yes, I did.

10 MR. GERALD NORLANDER: And could you summarize what the
11 changes were in that testimony filed yesterday?

12 MR. STEVEN KRAMER: Well, subject to hearing what the
13 summary may be, we may have an objection to that, Your Honors.
14 If there are corrections, we'd like to hear what the corrections
15 are.

16 JUDGE PAUL AGRESTA: Okay.

17 MR. GERALD NORLANDER: There are no further corrections.
18 I'm just asking him to summarize what is different in his
19 updated testimony with the testimony previously filed.

20 MR. STEVEN KRAMER: Right, and I'm asking because we never
21 received any response --

22 JUDGE PAUL AGRESTA: Hold your objection for now.

23 MR. STEVEN KRAMER: Okay, thank you.

24 JUDGE PAUL AGRESTA: Let's hear what he has to say first.

25 MR. WILLIAM D. YATES: The updates were that we've received

1 N. Brockway, W. Yates

2 an additional two months worth of data for October and November
3 of 2013 with regard to the collections reports that were not
4 available when I was preparing my initial written testimony.

5 MR. GERALD NORLANDER: And the corrections that were also
6 contained?

7 MR. WILLIAM D. YATES: The corrections in my initial
8 testimony on Page 3, Line 3.

9 MR. GERALD NORLANDER: Just for clarification, these are
10 the corrections that are included in yesterday's testimony; it
11 was summarizing what those are. We be correct and apologize
12 that we didn't have a red line version highlight what the
13 changes were. We're making no changes to yesterday's testimony.

14 MR. WILLIAM D. YATES: On my initial testimony on Page 3,
15 Line 3, the percent of total customers terminated should be .288
16 percent, not 2.88 percent.

17 On Page 3, Line 7, the percent of total customers
18 defaulting on DPA should be .77 percent, not 77 percent.
19 Additionally, on Pages 4 through 12, Lines 1 and 2 of each page
20 the equations were not displayed on the graphs that I provided.
21 They are provided in the testimony filed yesterday.

22 MR. GERALD NORLANDER: Thank you. With those corrections
23 noted, our witnesses are available for cross.

24 JUDGE PAUL AGRESTA: Miss Brockway, if I was to ask you a
25 question contained in the pre-filed testimony, would your

1 N. Brockway, W. Yates

2 answers be the same?

3 MS. NANCY BROCKWAY: Are we talking about the supplemental
4 testimony I filed.

5 JUDGE PAUL AGRESTA: Only the testimony that you filed on
6 January 10.

7 MS. NANCY BROCKWAY: Yes, other than the corrections I
8 made.

9 JUDGE PAUL AGRESTA: That's right. And Mr. Yates, for your
10 testimony that was filed yesterday, if I asked you those
11 questions right now, would your answers be the same as they are
12 written in the document?

13 MR. WILLIAM D. YATES: Yes, they would, Your Honor.

14 JUDGE PAUL AGRESTA: Thank you. Mr. Norlander, I take it
15 then that you're moving that the testimony be put in the record
16 as given orally?

17 MR. GERALD NORLANDER: Yes.

18 JUDGE PAUL AGRESTA: Mr. Kramer, do you have an objection?

19 MR. STEVEN KRAMER: No, Your Honor.

20 JUDGE PAUL AGRESTA: Does Mr. Richter have an objection?

21 MR. MARC RICHTER: No, Your Honor.

22 JUDGE PAUL AGRESTA: Does anybody else have an objection?
23 Alright, hearing no objections, the pre-filed testimony as
24 described and corrected will be placed in the record as given
25 orally. It will not be placed in the transcript. We will all

1 N. Brockway, W. Yates

2 be relying upon the pre-filed documents in the Commission's DMM
3 system.

4 I'd like to see indication by indication of hands of who
5 has cross for these witnesses.

6 MR. MARC RICHTER: I did, Your Honor, but considering that
7 the testimony on Page 24, Lines 3 through 18 were stricken in
8 entirety, I have no cross examination.

9 JUDGE PAUL AGRESTA: How convenient. Does anybody else
10 have any cross for these witnesses?

11 MR. STEVEN KRAMER: Staff does not, Your Honor.

12 JUDGE PAUL AGRESTA: Okay. Do we have any cross for these
13 witnesses? I have, I think, two questions.

14 Miss Brockway, as to Medicaid eligibility, the biggest flaw
15 I see in your proposal is that you can't tell me with certainty
16 how many customers will be added. You don't know whether it's a
17 thousand, 10,000. One witness even thought it might be a
18 million. Now I did some research on how many people are signed
19 up for Medicaid in New York State, and I don't intend this
20 sentence that I'm going to say to be evidence, but it's been
21 trending up significantly in the last few years. It probably is
22 going to reach something like six million people in the total of
23 New York State by 2014. Two-thirds of them are in New York
24 City, and if you subtract out the people that are eligible that
25 are children, that leaves you with something like 2.4 million

1 N. Brockway, W. Yates

2 individuals in New York City. I don't know how many of them are
3 Con Ed customers. I don't know how many of them are any kind of
4 customer. They may be living in institutions, but the number is
5 big. So I'm wondering if you could give me some kind of a
6 response to this, what if we were to run a test match and to see
7 how many customers making Medicaid eligible on the electric side
8 generates before we make a decision as to whether or not
9 Medicaid should be a qualifying figure, what would you think of
10 that proposal?

11 MS. NANCY BROCKWAY: Well, my first response would be that
12 it's not consistent with my overall recommendation to the
13 Commission, which is that you figure out what the need is and
14 then you set the rate and if you have to, you back off of the
15 rate -- off of the discount in order to accommodate impacts
16 under the customers. Having said that --

17 JUDGE PAUL AGRESTA: But if it turned out to be a million
18 customers, your rate would be like 3 cents per customer and it
19 wouldn't make any sense at all.

20 MS. NANCY BROCKWAY: I'm sorry, what?

21 JUDGE PAUL AGRESTA: If it turned out that there were --
22 there's now something like 417,000 customers that are eligible.
23 If you added another million and then tried to reduce the
24 discount rate to account for that, it wouldn't make much sense.
25 So you can understand the quandary I'm in not knowing what the

1 N. Brockway, W. Yates

2 number is.

3 MS. NANCY BROCKWAY: Yes, and that I had a similar problem,
4 as you can tell from the testimony. So the question is whether
5 or not a test match should be done?

6 JUDGE PAUL AGRESTA: That's right, before the Commission is
7 asked to make a decision on whether or not Medicaid should be
8 eligible on the electric side, so that we would at least be able
9 to tell the Commissioning what it would cost or how many
10 customers would likely be enrolled.

11 MS. NANCY BROCKWAY: I would be much more comfortable if
12 the issue were determined in this docket and not held open, so
13 another way of doing it would be to say if there are 50,000 new
14 customers, okay, if it goes above 150,000 new customers, you
15 have to bring it back, something like that. I think the main
16 point that I was making is that as The City of New York -- I
17 think it's The City of New York witness said almost everybody
18 who's on Medicaid is also on one of the other qualifying
19 programs, so there shouldn't be that many. With respect to
20 those folks who are on Medicaid because they're medically needy,
21 I just would say in response to what was said before, if the
22 reasons that you are poor is because you have to pay medical
23 bills --

24 JUDGE PAUL AGRESTA: Now you're going beyond the scope of
25 my question, which you're not allowed to do.

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2 MS. NANCY BROCKWAY: Sorry. I just wanted to get that in.

3 JUDGE PAUL AGRESTA: Well, you didn't.

4 MS. NANCY BROCKWAY: I think that I've answered it in this
5 sense, that I would much prefer that the Commission, if it felt
6 that a limit was necessary, decide that limit now instead of
7 leaving this open, but also to have a range so that there could
8 be quite a substantial increase. I don't think there will be,
9 but there could be quite a substantial increase before it would
10 trigger any kind of reevaluation of the program.

11 JUDGE PAUL AGRESTA: Yeah, but wouldn't it be a shame that
12 if you set a limit of 50,000, and it was 52,000, that you then
13 couldn't go forward?

14 MS. NANCY BROCKWAY: Yes, but the other hand is, I think,
15 maybe I should ask you this, is what exactly are you
16 proposing --

17 JUDGE PAUL AGRESTA: You don't get to ask me anything.

18 MS. NANCY BROCKWAY: I know because -- I am assuming a
19 procedure that maybe is not what you had in mind in the
20 question.

21 JUDGE PAUL AGRESTA: Okay, let me clarify then. What I'm
22 saying is during the next run, I forget what months the runs are
23 done. There's twice a year. There's --

24 MS. NANCY BROCKWAY: I think it's March and September.

25 JUDGE PAUL AGRESTA: Let's assume it's March, okay. You do

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2 a test run of the electric side to see how many customers would
3 have matched that are not already considered low income
4 customers. Then Con Ed would report that information back to
5 the Commission and then at that point there would be further
6 process to decide whether or not Medicaid should be made
7 eligible; it would be like a follow-on procedure as part of this
8 case. Why wouldn't that satisfy your interest?

9 MS. NANCY BROCKWAY: It could. It -- it's not as clean an
10 approach as I prefer personally, but that's me personally, and
11 so if what you're saying is it would be better to have this
12 question of volume decided before the decision is made, that's
13 also -- makes sense.

14 JUDGE PAUL AGRESTA: One other area I want to talk to you
15 about regarding --

16 MR. KEVIN LANG: Excuse me, Your Honor, before you move
17 forward, Con Edison doesn't do the match. Westchester County
18 and the City do.

19 JUDGE PAUL AGRESTA: I understand. I understand that the
20 match is done by the government and that Con Ed is going to be
21 paying them their costs.

22 MR. KEVIN LANG: Not only the cost of doing the match, Your
23 Honor.

24 JUDGE PAUL AGRESTA: That's not my understanding.

25 MR. KEVIN LANG: The -- the costs that are being reimbursed

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2 are the costs of the mailing. The City --

3 JUDGE PAUL AGRESTA: But there would be no mailing --

4 MR. KEVIN LANG: No, but --

5 JUDGE PAUL AGRESTA: -- in this instance.

6 MR. KEVIN LANG: -- there's a significant cost. The City
7 has to do programming. The City has to get runtime because
8 doing this match takes days. It's not something that's done in
9 five minutes.

10 JUDGE PAUL AGRESTA: Okay, we'll take that into
11 consideration.

12 The second area I wanted to ask you about is creating a
13 performance standard using HEFPA compliance, okay. You laid out
14 a bunch of facts in your testimony claiming that there was not
15 HEFPA compliance in a certain instance. Reviewing those facts I
16 came up with a number of questions that would lead me to the
17 conclusion that I could not, with the facts that you presented,
18 decide whether or not there was a HEFPA violation or not, and I
19 think that would be true in the future in every instance. Now
20 we have -- we want the company to comply with HEFPA, but
21 ordinarily when you set up the performance mechanism, it's
22 usually a dumb measure that somebody doesn't have to argue
23 about. Either you replaced a foot of pipe or you didn't.
24 There's no qualitative discussion. There's no attorneys
25 deciding what the law means. So I'm concerned that while the

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2 Commission does have full authority to enforce HEFPA and it has
3 the ability to now under the new law even to, I think, assess
4 penalties without going to Supreme Court, it has all kinds of
5 powers under HEFPA, I'm concerned that you haven't given us a
6 performance standard related to HEFPA that would be something
7 that you could administer. I'd like you to comment on that,
8 please.

9 MS. NANCY BROCKWAY: Yes, I think there are two aspects of
10 that. The one of them is the question of whether HEFPA
11 violations by their very nature are not visible based on some
12 summaries, which is what I did here, and the other one -- and
13 are subject to some interpretation. The other one is what would
14 be the process for deciding actually what the violation would
15 bring. So I think those are two separate questions.

16 On the first one, I'd say a couple of things. I don't
17 think that that is true about every aspect of HEFPA. So I think
18 you can identify aspects of HEFPA which are cookie cutter.

19 The second thing I would say is I don't think that HEFPA
20 would be the only non completely cookie cutter standard. One
21 can get into disagreements about the other standards. Perhaps
22 one doesn't usually do that, but I've done a fair amount of
23 testimony on CAIDI, SAIFI and SAIDI.

24 MR. MARC RICHTER: Your Honor --

25 JUDGE PAUL AGRESTA: Those are standards about the duration

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2 and frequency of outages, right?

3 MS. NANCY BROCKWAY: Yes.

4 MR. MARC RICHTER: Your Honor, if I could just be heard for
5 a moment.

6 JUDGE PAUL AGRESTA: Let's let her finish her answer.

7 MR. MARC RICHTER: Well, I'm concerned about her finishing
8 her answer. While we respect the ruling on the motion earlier
9 in the hearing today about not striking this portion of
10 testimony, with all due respect, questions which now give this
11 witness the opportunity to further expound and clarify on a
12 proposal which we saw for the first time two days ago and for
13 which there is no process left in this case for the company,
14 staff or any other party to respond to, to the extent -- what
15 this witness put on the table, they put on the table, alright,
16 and I guess we've accepted the process as of now to let it stand
17 where it is, but I do have great concerns here and might ask
18 for, you know, additional, if this goes on, additional process
19 to protect the company in terms of, you know, now developing a
20 record in terms of what this metric might look like.

21 JUDGE PAUL AGRESTA: Okay, but I don't think your objection
22 is relevant to the question that I asked her. I asked her to
23 react to my concern that it's not easy to measure HEFPA
24 violation, and normally when you do an incentive regime, it's
25 something that's easily measurable. So please finish your

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2 answer.

3 MS. NANCY BROCKWAY: I can't remember exactly where I was.
4 Let me just give a couple of examples of cookie cutter items.
5 HEFPA says once a customer asks -- once a potential customer
6 asks for services, you have X many days to provide it or not
7 provide it. If a customer has died in a household, you cannot
8 just move the bill to the names of the other people in the
9 household.

10 JUDGE PAUL AGRESTA: So that one is not a cookie cutter one
11 in my view at all.

12 MS. NANCY BROCKWAY: And why would that be? Sorry, I can't
13 ask you questions. I think it is, actually, because there is no
14 doubt -- first of all, there is doubt about whether those facts
15 happened. I can't represent that I know for a fact that those
16 facts happened, but let's say they did, I can't imagine any
17 other reason why the company would be able to deny service --
18 would be able to say you have to pay your husband's bill,
19 because HEFPA is very clear about this. This whole question of
20 what other adults or even other people in a household are
21 responsible to pay a bill that's been incurred for which they
22 benefitted is a hugely contested issue. I'll get to that, but
23 HEFPA decides that in some cases. This is one of those cases
24 where it would be decided. There's nothing in what -- assuming
25 that what Con Ed's response was is as it's represented here,

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2 there's nothing in there which gives them any reason for
3 denying, for denying of service.

4 JUDGE PAUL AGRESTA: Well, I don't want to argue that case,
5 but I will for a minute. In the facts it said that the lease
6 was in the name of the grandmother who was the same person, I
7 believe, who had the electric account, okay. It's not clear to
8 me that the -- the mother had the legal right to apply for
9 service. Her name wasn't necessarily on the lease. I don't
10 know what -- maybe only the estate could apply for a new bill
11 under the name of the estate. See, these are the kinds of
12 things that are -- that are deep, legal questions that are
13 inherent in a lot of this HEFPA stuff that there's just no way
14 to write an easy performance standard for it.

15 MS. NANCY BROCKWAY: Well, I would say a couple of things
16 about that, Your Honor. It doesn't have to be that way. If
17 people pay as much attention to the details of how customer
18 service is given and how HEFPA is enforced as they do to the
19 minutia of other situations, you quickly come to a point where
20 you can categorize all the situations. As a matter of practice
21 in the utility regulation, we haven't done that very often.

22 The second thing I would say is that it seems to me that
23 the question of exactly what HEFPA violation should incur
24 exactly what penalty and exactly what terms ought to be
25 something which is discussed, I would suggest a collaborative

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2 process to come back to the Commission, and that's not clean in
3 my sense, but I have to acknowledge that I didn't give you a
4 template that you could just put into order.

5 JUDGE PAUL AGRESTA: Thank you. I don't have anything
6 else.

7 MR. GERALD NORLANDER: If I may just make a comment. I
8 think all of the service quality performance metrics have been
9 the result of cooperative collaboration.

10 MR. MARC RICHTER: Your Honor, I don't see a basis for
11 counsel being given an opportunity to testify at this point.

12 JUDGE PAUL AGRESTA: I agree. I agree. I've heard enough.

13 MR. GERALD NORLANDER: Thank you.

14 JUDGE PAUL AGRESTA: Alright. These witnesses are excused.

15 JUDGE JULIA SMEAD BIELAWSKI: Thank you.

16 MS. NANCY BROCKWAY: Thank you.

17 JUDGE PAUL AGRESTA: Now we have five exhibits that were
18 identified for identification. Does anybody have any objection
19 to putting them into evidence? Hearing none, Exhibits 1000
20 through 1004 will be in evidence.

21 Anything else? Does any party have anything else they want
22 to raise before we close the hearing today?

23 MR. BRIAN OSSIAS: Yes, Your Honor. Your Honor, we have
24 two minor issues that we wanted to raise with you before you
25 move these exhibits into the record.

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2 JUDGE PAUL AGRESTA: We already moved the exhibits into the
3 record.

4 MR. BRIAN OSSIAS: Oh, alright. So the two minor issues
5 are as follows: There are some corrections on Appendix 27,
6 Page 1 of 3 that reflect some changes in capital expenditure
7 numbers for the electric Cap-EX.

8 JUDGE PAUL AGRESTA: You're referring to Exhibit 1000, the
9 joint proposal?

10 MR. BRIAN OSSIAS: Yes. In addition we have changes to
11 Appendix 17 of the joint proposal under the gas regulations
12 performance measures, Pages 7 through 8 of 9. There's some
13 changes in the wording in one of the paragraphs to make clear
14 when the metric will begin at the start of the rate year, which
15 is January 1, 2014.

16 JUDGE PAUL AGRESTA: So one is like a typo and the other
17 one is a clarification or getting rid of an ambiguity?

18 MR. BRIAN OSSIAS: Correct.

19 JUDGE PAUL AGRESTA: Do all of the signatories of the joint
20 proposal agree that the corrections are accurate?

21 MR. BRIAN OSSIAS: I can represent that all of the parties
22 that are in this room who signed the joint proposal agree. I
23 don't know -- there are parties that are not represented here
24 today who have not seen these changes.

25 JUDGE PAUL AGRESTA: Who's missing?

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2 MR. BRIAN OSSIAS: UIU, EDF.

3 MR. MARC RICHTER: NRG, Astoria Gen.

4 MR. KEVIN LANG: The New York Power Authority.

5 JUDGE PAUL AGRESTA: Why don't you submit -- why don't you,
6 first of all, contact those parties, make sure that there's no
7 objection and then once you've achieve no objection, submit them
8 in a letter to the secretary as a formal amendment -- not
9 amendment; don't use that word, just put it as a correction to
10 the joint proposal document and serve all the parties
11 electronically, okay?

12 MR. BRIAN OSSIAS: I will do that. Thank you, Your Honor.

13 JUDGE PAUL AGRESTA: Thank you.

14 MR. GERALD NORLANDER: Your Honor, if you could note, we
15 have no objection to these changes.

16 JUDGE PAUL AGRESTA: Thank you, Mr. Norlander. I
17 appreciate that. Any other matters to be brought before us
18 before we close the record? Okay, thank you very much. The
19 record is closed.

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22 (Whereupon, the hearing was concluded

23 at 2:16 p.m.)
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25

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I N D E X

<u>WITNESS</u>	<u>EXAMINATION BY</u>	<u>PAGE</u>
CONSOLIDATED EDISON STAFF PANEL	MR. KRAMER	72
	MR. RICHTER	80
	MR. NORLANDER	81

EXHIBITS

		<u>PAGE</u>
1000	Joint proposal dated December 31, 2013	13
1001	Set of electric bill tables for rate year one	14
1002	Bill tables for electric rate year two	14
1003	Gas bill tables	14
1004	One page document, entitled "Healthcare enrollment Actual 2014	14

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2 C E R T I F I C A T E

3 I, Holly Van Pelt, a shorthand reporter and Notary Public
4 within and for the State of New York, do hereby certify:

5 That the witness(es) whose testimony is hereinbefore set
6 forth was duly sworn by me, and the foregoing transcript is a
7 true record of the testimony given by such witness(es).

8 I further certify that I am not related to any of the
9 parties to this action by blood or marriage, and that I am in no
10 way interested in the outcome of this matter.

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14 Holly Van Pelt
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ERRATA SHEET

The following are my corrections to the attached transcript:

<u>PAGE</u>	<u>LINE</u>	<u>SHOULD READ</u>
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