PROPERTY TAX PANEL – ELECTRIC AND GAS

TABLE OF CONTENTS

I. INTRODUCTION

Q. Would each member of the Property Tax Panel ("Panel") state your name and business address.

A. **(Lenns)** My name is Charles Lenns. My business address is 4 Irving Place, New York, New York.

(**Talbot)** My name is William Talbot. My business address is 4 Irving Place, New York, New York.

(Merritt) My name is Stephanie J. Merritt. My business address is 4 Irving Place, New York, New York.

Q. By whom are you employed and in what capacity?

A. We are employed by Consolidated Edison Company of New York, Inc. ("Con Edison" or the "Company") and among our responsibilities; we are responsible for the property tax functions for the Company and its affiliate, Orange and Rockland Utilities, Inc. ("Orange and Rockland").

Q. Mr. Lenns, please explain your educational background, work experience and current general responsibilities.

A. I have a Bachelor's Degree in Accounting from the University of Scranton, and a Juris Doctorate from Duquesne University Law School. I was a tax partner at Ernst & Young, LLP ("Ernst & Young") for 23 years, mostly specializing in taxation of power and utility companies. While a partner at Ernst & Young, I was the firm's tax practice leader for the power and utilities mergers and acquisitions group. I am a frequent speaker at Power and Utility tax seminars and conferences. I was employed by Ernst & Young in various tax positions for 11 years prior to my becoming a partner of the firm. I am the Vice President – Tax at Con Edison, and I am the chief tax officer for Orange and Rockland and have been in my current position for approximately three years.

I am currently an adjunct instructor at the University of Scranton, where I teach various tax classes at both the undergraduate and graduate levels. While at Ernst & Young, I was an adjunct law professor at Duquesne Law School, and an adjunct instructor at Duquesne University's Masters in Taxation program. I also served as an instructor in the Ernst & Young National Tax Education program, called EY University. I am a member of the Edison Electric Institute Taxation Committee, and a member of the American Gas Association Taxation Committee. I am a licensed attorney and a certified public accountant in the Commonwealth of Pennsylvania. I am a member of the American Bar Association and a member of the American Institute of Certified Public Accountants.

Q. Mr. Talbot, please explain your educational background, work experience and current general responsibilities.

A. I graduated from Pace University in 1978 with the degree of Bachelor of Business Administration. I received a Master of Business Administration degree from Iona College in 1985. I have been employed by Con Edison since 1978 and have held various positions of increasing responsibility within the Accounting and Tax areas. My first assignment with the Company was in the Corporate Accounting Department, where I spent 16 years and attained the position of Department Manager. I was Department Manager of the Accounting Research and Procedures Section from 1987 until May 1994. In 1994, I moved to the Tax Department as Director. In 2003, I returned to Corporate Accounting as a Director, ultimately responsible for Property Records, Payroll and Tax. Since March 2007, I have been a Department Manager in the Tax Department. My responsibilities include oversight of the sections and personnel responsible for taxes other than income taxes, including property taxes, and IRS tax audits.

Q. Ms. Merritt, please explain your educational background, work experience and current general responsibilities.

A. I graduated from Le Moyne College in 2004 with the degree of Bachelor of Science in Accounting as well as a Bachelor of Arts in Economics. Currently, I am pursuing a Masters of Business Administration Degree in Accounting and Finance from Syracuse University. I have been employed by Con Edison since 2005 and have held various positions of increasing responsibility within the Finance area. After approximately two years in Corporate Accounting, I transferred to the Tax Department where I was promoted to Staff Accountant in the Book Depreciation Group. In that position, my major responsibilities included the preparation and interpretation of the Company’s depreciation studies in connection with rate proceedings. In that role I assisted in over ten rate proceedings for Con Edison and Orange and Rockland (before the New York Public Service Commission (“Commission”)); Rockland Electric Company (before the New Jersey Board of Public Utilities) and; Pike County Light & Power Company (before the Pennsylvania Public Utility Commission). In 2010, I began working in the Property Tax Group. I started as the Accounting Supervisor and rose to the position of Senior Tax Accountant in 2014. In both of these roles I was responsible for the overall supervision of the property tax function for Con Edison, including but not limited to payments, accounting and compliance. I have held my current position of Section Manager since 2015.

Q. Have any members of the Panel previously testified before any regulatory commission?

A. **(Lenns)** I have testified before the Commission on the subject of property taxes, as well as other areas, in Con Edison Case 15-E-0050 and in Orange and Rockland Cases 14-E-0493 and 14-G-0494 and as an expert witness in utility rate cases in California, West Virginia and Hawaii. In addition, I have provided tax consulting services to utility companies in preparation for rate proceedings.

(Talbot) I have testified before the Commission on the subject of income taxes in Con Edison Cases 03-M-1148 and 04-M-0026 and on the subject of property taxes in Con Edison Cases 09-E-0428 and 15-E-0050 and Orange and Rockland Cases 14-E-0493 and 14-G-0494.

(Merritt) I have submitted testimony and testified before the Commission on the subject of property taxes in Con Edison cases 13-E-0030, 13-G-0031 and 13-S-0032.

II. PURPOSE OF TESTIMONY

Q. What is the purpose of the Panel's direct testimony in this proceeding?

A. Our direct testimony:

- Presents general background information on property taxes;

- Describes the level of electric and gas property taxes recently paid by the Company;
- Presents our electric and gas property tax forecast and explains the methodology and certain assumptions used in that forecast;
- Explains the limitations on the Company's ability to control, and as a consequence, the difficulty in estimating, the level of its property tax obligations and describes the corresponding need for and our support of a full and symmetrical property tax reconciliation as proposed in the direct testimony of the Company's Accounting Panel; and
- Discusses the Company's efforts to pay no more than its fair share of property taxes.

Q. Please explain the general basis upon which property taxes levied upon the Company have historically been determined.

A. Historically, the property taxes Con Edison has paid were based on the "value" of taxable property, and include taxes on land and the structures and/or equipment erected or affixed to the land. These property taxes are known as real estate taxes. In New York State, utilities also pay property taxes on utility equipment located on or under the public streets and highways. These property taxes are known as special franchise taxes. In New York State, public utility property is valued under a method known as the “cost approach.” The New York State Office of Real Property Tax Services (“ORPTS”) and many of the local assessors in the Company’s service territory determine value by using a Reproduction Cost New Less Depreciation (“RCNLD”) methodology for utility structures and/or equipment. RCNLD calculates what it would cost to reproduce the utility structures and/or equipment at current construction costs based on a trending index, subtracts an allowance for depreciation and obsolescence, if any, and adds the value of land to arrive at a “value” for the entire property. The RCNLD methodology is used only to value certain of the Company’s structures and all of its equipment. The value of real property and commercial buildings, such as the Company’s 4 Irving Place Headquarters or the Learning Center, are determined by comparable sales or rental data rather than the RCNLD methodology.

A. SUMMARY OF RECENT AND PROJECTED PROPERTY TAXES

Q. Please provide some background on the amount of property taxes paid by the Company.

A. The Company pays property taxes to New York City and other municipalities. The other municipalities are principally located in Westchester County but also in Orange, Rockland, Dutchess and Putnam Counties. In addition, the Company pays property taxes on gas storage facilities (pursuant to a service agreement) located in West Virginia and Mississippi. We will refer to those other municipalities as “Westchester & Other”. For calendar year 2015, property taxes were $1,179.6 million for electric expense and $192.1 million for gas expense. Of those amounts, $1,197.7 million is applicable to New York City and $174.0 million to Westchester & Other. For calendar year 2016, we have forecasted property taxes for electric expense to be $1,252.8 million, and for gas expense to be $215.3 million. Of those amounts, $1,279.1 million is applicable to New York City and $189.0 million to Westchester & Other. For the historic test year (*i.e.*, October 1, 2014 through September 30, 2015), property taxes for electric expense were $1,164.3 million, and for gas expense were $188.0 million. Of those amounts, $1,178.9 million was applicable to New York City and

$173.4 million to Westchester & Other.

Q. Have you forecasted property taxes for calendar year 2017 for this proceeding?

A. Yes. For calendar year 2017 (the “Rate Year”), we have forecasted property taxes for electric expense to be $1,321.7 million, and for gas expense to be $240.6 million. Of those amounts, $1,362.9 million is applicable to New York City and $199.4 million to Westchester & Other.

Q. What are the main drivers of the Company’s property tax increases during the 2015 through 2017 period?

A. Property taxes increase because either the tax rate increases and/or there is an increase in assessed value. However, both of those items are influenced by many factors, making it difficult to estimate future property taxes. For example, it is not possible for us to determine the needs of each individual town government and school district each year. In all cases, the Company’s property taxes are subject to the vagaries of municipal management, economic circumstances and political influences. In addition, the Company has no control over tax rates, leaving assessment challenges, when warranted, as the only recourse to mitigate the Company’s property tax liability. Regarding assessments, the growth of the value of the Company’s property and equipment, either through new infrastructure investment, application of the Handy-Whitman construction index, or discontinuation of depreciation, is the primary driver of assessment increases.

Q. Will the Company provide updates related to property taxes during this proceeding?

A. Yes. The Company intends to update property taxes as part of its formal update at the update stage of this proceeding and may also provide updated property tax information throughout this case if new information that is, in the Company’s judgment, significant becomes available. It is the Company’s recommendation to base the revenue requirement in this case on the latest available information on property taxes, subject to full reconciliation as discussed later in our testimony and by the Company’s Accounting Panel.

B. NEW YORK CITY TAX FORECAST

Q. Please explain how you forecasted New York City property taxes.

A. We used the Company’s 2015/2016 final real estate and special franchise assessed values as a starting point, and applied current tax rates to those values to compute taxes for fiscal year 2015/2016. We then computed estimated changes to assessed values for subsequent periods based on net plant changes forecasted by the Company's Accounting Panel. To determine forecasted property taxes for those subsequent periods, we applied the 2015/2016 tax rates for New York City to the forecasted assessments for each tax class.

Q. For the purpose of estimating property tax rates in New York City, did you compute a five-year average percentage change in the tax rates?

A. Yes we did, and it indicates that the Class 3 rate has decreased significantly and that Class 4 rate has increased.

Q. Did you use the five-year average for the escalation rate?

A. Not for New York City. We have concluded that it is best to use the most current rates for all years being forecasted. We will explain the reasoning for our decision in more detail later in this testimony.

C. WESTCHESTER & OTHER TAX FORECAST

Q. Please describe how you arrived at the forecasted property tax amounts for Westchester & Other.

A. For Westchester & Other, we used the Company's most recent property taxes paid as a starting point. Then, because it is not practicable to specifically forecast property taxes for each of the many different municipalities, school districts and other special districts to which the Company pays property taxes because each has different factors affecting its need to raise revenue, we developed an overall escalation percentage to develop the forecasted amounts. The escalation percentage was developed based on recent historical tax payment information from calendar years 2010 through 2015.

Q. What escalation percentage did you use?

A. We used a five-year average escalation percentage of 5.50%.

Q. Is that because you expect taxes in each of the next several years to increase by 5.50%?

A. Yes, we believe it is a good basis for estimate. The five-year average in Westchester & Other has been fairly stable and at this time we believe that a 5.50%

escalation rate will be representative of the escalation rate applicable during the Rate Year.

Q. Is there a difference in methodology between the escalation rate you used for Westchester & Other and the escalation rate you used for New York City?

A. Yes. The five-year average for Westchester & Other is an average based on actual taxes paid by the Company that we believe should be relied upon to set the level of property taxes in this proceeding. In contrast, as noted above, for New York City we used the current fiscal period tax rates.

Q. How did you reflect the 2% cap law under the New York State real property tax law (*i.e.*, N. Y. General Municipal Law Section 3-C) with respect to property taxes in your analyses?

A. We made no effort to specifically reflect the 2% cap law in our analyses.

Q. Why not?

A. The impact of the 2% cap on the Company’s property taxes is necessarily limited by the fact that it does not apply to New York City. As to areas outside New York City (*e.g.*, Westchester), the legislation limits are not dispositive as they may be overridden by a 60% vote of the governing body of the local government or a 60% vote of school district voters. In addition, there are exclusions that limit the reach of the cap. For instance, there are exclusions for court orders or judgments against the governing body or school district. There are also exclusions for contributions to employee retirement funds beyond specified limits. Other exclusions require computations to determine what the legislation refers to as a “quantity change factor,” which may allow the tax levy to increase above the cap due to development. There are also exclusions that will allow school districts to increase the tax levy for certain expenditures associated with facilities, capital equipment, debt service, lease expenditures, and transportation debt service, subject to the approval of the qualified voters where required.

Q. Are you sponsoring an exhibit containing the computation of the five-year average escalation rate?

A. Yes, we are sponsoring Exhibit __ (PTP-1) entitled “CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., FIVE-YEAR AVERAGE OF PROPERTY TAXES PAID, WESTCHESTER & OTHER” for that purpose. This exhibit summarizes the tax payments made for the last six calendar years and computes the five-year average for Westchester & Other.

Q. Was Exhibit __ (PTP-1) prepared by you or under your direction and supervision?

A. Yes.

D. INABILITY TO REASONABLY FORECAST PROPERTY TAXES

Q. Why do you believe that a reasonable forecast of the Company’s property taxes is not practicable?

A. In New York State the main revenue source to balance local municipal budgets is property taxes. Local budgets are strongly influenced by general economic conditions. Moreover, as discussed above, the majority of the Company’s property taxes are New York City property taxes. In New York City, the classification system adds additional complexity and uncertainty.

Q. Please provide an overview of the tax rate process in New York City.

A. Each year, the Mayor submits to the City Council the executive budget for the upcoming fiscal year (*i.e.*, July 1 to June 30). After the City Council adopts a budget, it must fix the annual real property tax rates and authorize the levy of real property taxes for the fiscal year.

Q. What mechanism does New York City use to fix property tax rates?

A. The City Council must pass a resolution, known as the Tax

Fixing Resolution, which authorizes the tax rates to be used for each class and authorizes the levy of real property taxes for the fiscal year. The most recent Tax Fixing Resolution was adopted in June 2015, which authorized the use of the tax rates that became effective for fiscal year 2015/2016.

Q. Please describe New York City’s tax fixing process.

A. The City Council determines the amount of the real property tax levy in the following manner. First, the Council acknowledges the amount of the fiscal year budget and the estimate of the probable amount of all non-property tax revenues. Both amounts are set forth in a communication from the Mayor. The Council then determines the net amount to be raised by taxes on real property by subtracting the amount of the fiscal revenue amount from the fiscal budget amount. The property tax is unique in that it is the only tax over which New York City has the discretion to determine the rate without new legislation from the State and, therefore, property taxes may be used to balance the budget. New York City also makes allowances for such items as uncollectible property taxes, refunds and collections of levies from prior years, collectively known as the “property tax reserve.” The tax levy is equal to the property tax revenue plus the property tax reserve.

Q. What happens next?

A. After having determined the amount of the real property tax levy, the Council authorizes and fixes the real property tax rates. Three factors determine the amount of tax imposed on a property in New York City: the market valuation for the property itself; the fraction of the market value on which taxes are to be paid; and the tax rate for the property class. There are four classes of property in New York City and therefore four different tax rates.

- Classes 1 and 2 pertain to various forms of residential property.
- Class 3 contains most utility property. Special franchise property is included within this class.
- Class 4 contains all commercial and industrial properties, such as office, retail, factory buildings and all other properties not included in tax classes 1, 2 or 3.

With minor exceptions covering certain vacant land that is classified within the residential classes, the vast majority of the Company's property is included in Class 3, with the remainder included in Class 4. Each class is responsible for a specific share of the property tax levy, known as the “class share.”

Q. How are the class shares determined?

A. The class shares are determined each year according to a complex statutory formula that takes into account changes in the market value of taxable real property, physical changes resulting from new construction or demolitions, changes in taxable status, and transfers of real property among the four classes. The “base percentage” is the percentage of total market value that each class constituted on the 1989 base tax roll. This is the roll that was used in setting the tax levy for fiscal 1990. The “local base proportions” are the class tax shares that were used to fix the tax rates for fiscal 1991. Each year the City Council certifies “current percentages” and “current base proportions” to the State Board of Real Property Services (“SBRPS”). The current percentage is similar to the base percentage but applies to the most recent year for which the SBRPS has established class equalization rates (typically the preceding fiscal year). The current base proportions are the local base proportions modified to take into account the market value changes indicated by the latest class equalization rates. The Council next certifies the "adjusted base proportions" to SBRPS. The adjusted base proportions are the current base proportions adjusted to reflect physical and quantity changes indicated on the current assessment roll. These adjusted base proportions constitute the class shares applicable to the tax levy on the current tax roll. Fundamentally, the process was designed so that each of the four classes would bear roughly the same class share of the overall tax levy as it did in 1990, subject to physical and market value changes.

Q. Is there a limitation on the levy and/or the class shares?

A. There are two limitations. One is a State constitutional operating limit provision and the second is a five percent cap.

Q. Please describe the operating limit provision.

A. The operating limit provision generally provides that New York City is not allowed to levy taxes on real property in any fiscal year in excess of an amount equal to a combined total of 2.5 percent of the average full valuation of taxable real property for the current year and the prior four years.

Q. Please describe the second limitation.

A. The second limitation is a five percent cap. The statute provides that the current base proportion (*i.e.*, the current year’s class share) of any class cannot exceed the adjusted base proportion or adjusted proportion of the prior year by more than 5%. Where a class’s share change exceeds the 5% limit, the excess is spread among the other classes. In most years, the legislature has passed annual laws lowering the 5% overall cap. The effect of these laws was to limit the growth of class 1’s share thereby causing the other classes to bear more of the overall tax burden than would have been the case under the 5% limit.

Q. Was there a legislation lowering the 5% cap passed for fiscal year 2015/2016?

A. No, and there was no similar legislation passed for 2014/2015 either. We believe that is the primary reasons for the drop in the Class 3 tax rate from 11.902% in fiscal year 2013/2014 to 10.813 in fiscal year 2015/2016. However, we also see the potential for cap legislation as one of the factors that make forecasting property taxes in New York City so difficult.

Q. Does New York City’s tax fixing process facilitate projecting the Company’s future property tax liabilities?

A. No, it does not. The process can produce very different results from one year to the next.

Q. Please provide some examples of this tax rate volatility.

A. As an example of why rates are difficult to predict, in fiscal year 2007/2008 New York City unexpectedly cut the class 3 rate by 3.6% and then raised the class 3 rate by 4.8% in the following fiscal year. Similarly, in fiscal year 2002/2003, New York City raised rates unexpectedly and with little warning by 9.9%.

Q. Can you provide an example of the effect of a tax rate change for New York City?

A. Yes. Absent any other changes in the forecast, a 5.0% increase (*e.g.*, an increase from 10.813% to 11.354% for Class 3 and an increase from 10.656% to 11.189% for Class 4) in New York City's tax rates above the rates we have used in our forecast for both Classes 3 and 4 would increase Rate Year taxes by $69.1 million for our electric and gas properties.

Q. Are you sponsoring an exhibit on historic tax rates?

A. Yes, we are sponsoring Exhibit __ (PTP-2) entitled "CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., SUMMARY OF HISTORIC NEW YORK CITY PROPERTY TAX RATES" to illustrate the volatility of class 3 and 4 rates.

Q. Was Exhibit __ (PTP-2) prepared by you or under your direction and supervision?

A. Yes.

Q. What property tax rates do you propose to use for purposes of these proceedings?

A. We propose that for New York City we use the current property tax rates for Classes 3 and 4.

Q. Why are you recommending that the current rates be used?

A. As shown on Exhibit __ (PTP-2) entitled “CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., SUMMARY OF HISTORIC NEW YORK CITY PROPERTY TAX RATES” the tax rate in Class 3 is at its lowest level since 2001/02 and it has dropped by 15% since 2009/10 when it peaked at 12.743%. The class 4 rate, which is applicable to a much smaller proportion of the Company’s property, has been relatively constant over that same time frame. Currently, the rates for classes 3 and 4 are almost the same. We used the most current rates because in our view there is no discernable pattern of increase or decrease in the rates.

Q. Will you update the New York City Rates during the course of these proceedings?

A. We will update our forecast for tax rate changes if available, during the course of these proceedings. In addition, for the reasons we have discussed above, full property tax reconciliation is justified and appropriate.

Q. Does the Company have a proposal regarding reconciliation of property taxes to reasonably address the uncertainty of the Company’s level of property taxes for the Rate Year?

A. Yes. As explained by the Company’s Accounting Panel, and given the variability and uncertainty we have explained, and the very limited ability to mitigate this variability and uncertainty, the Company believes that an accounting and ratemaking mechanism that fully insulates customers and the Company from property tax forecast variations is reasonable and appropriate.

Q. Do you believe that full and symmetrical property tax reconciliation lessens the Company’s incentive to mitigate its property tax liability?

A. No, not at all. As we will explain in greater detail later in our testimony, and as the Company has explained in numerous rate proceedings, meetings with the Staff of the Department of Public Service (“Staff”), and annual reports to the Commission of the Company’s activities regarding property taxes, the Company has a long history of actively fighting to reduce the Company’s property tax burden. Challenges to unfair assessments, litigation, lobbying efforts to seek favorable legislation, and aggressively pursuing available property tax benefits are a normal course of business for the Company.

Q. Has the Commission previously approved the full reconciliation of property taxes for a single-year rate plan?

A. Yes, in Case 08-E-0539, a rate case in which the Commission established electric rates for Con Edison on a litigated rather than settled basis and for a single rate year (*i.e.*, outside of the context of a multi-year rate plan on settled terms). In addition in Orange and Rockland's most recent electric and gas base rate cases, *i.e.*, Cases 14-E-0493 and 14-G-0494, full property tax reconciliation was established.

Q. In Case 08-E-0539, did the Commission address concerns that a full reconciliation would lessen the Company's incentive to minimize property taxes?

A. Yes. The Commission concluded that would not be the case. In its *Order Setting Electric Rates*, issued April 24, 2009 in Case 08-E-0539 (pp. 106-107), the Commission stated:

> We share DPS Staff's concern about removing an incentive for the Company to minimize its property tax expenses. However, the record in these cases shows that the Company has aggressively sought to minimize its property tax assessments. Indeed, there is no assertion to the contrary. Moreover, our long standing policy is that a utility will be allowed to retain a share of property tax

> refunds, frequently in the 10-15% range, to the extent it can be established conclusively that the utility's efforts contributed to that outcome. Taking these two factors into account, we conclude that the Company already has and will retain an incentive to minimize its property tax assessments.

Accordingly, given the variability and uncertainty we have discussed above, the Company believes that a full and symmetrical property tax reconciliation mechanism that serves to protect both customers and the Company from forecast variations is both reasonable and appropriate.

E. EFFORTS TO MINIMIZE PROPERTY TAXES

Q. Please summarize the Company's efforts to minimize property taxes.

A. The Company has aggressively challenged its property tax assessments in an effort to pay no more than its fair share of property taxes. The Company has been and remains very concerned with the level of property taxes in its service territory and the impact of these taxes on customer bills.

Q. Please discuss the Company's efforts to keep property taxes to a minimum.

A. As discussed earlier in our testimony, property tax amounts are a function of a tax rate multiplied by an assessed value. The Company has no influence on the tax rates that municipalities set; therefore, the Company focuses on the fairness of assessed values set by the municipalities.

Q. How do you determine which assessments should be challenged?

A. Each year we review our property assessments to determine if they fall within a range of reasonableness under an RCNLD valuation. This approach to valuation begins with the original cost of property, which is then trended to the current time period using Handy Whitman indices to arrive at an estimated cost to reproduce the property today. That valuation is then reduced by depreciation. The RCNLD methodology develops what is considered the current market or full value of utility property and the method is used for valuation purposes by the ORPTS and the New York City assessors. If the actual assessments vary substantially from our RCNLD calculations, we file complaints with the applicable taxing authorities. We first attempt to settle these complaints through negotiation as we believe that a settlement is a more cost effective way of reducing our tax burden than more costly prolonged litigation, which requires independent appraisals and the outcome of which is uncertain. We do, however, pursue litigation when our efforts to reach what we believe to be a fair compromise fail.

Q. Please describe the tax controversy process.

A. As indicated, we monitor the assessed values of the Company's properties and take action for each property that we feel is not fairly assessed. Each municipality's assessing authority publishes a tentative assessment roll on an annual basis. The roll includes the annual tentative assessed values for each property located in the jurisdiction. If a taxpayer disagrees with the tentative assessment for their property, they may file an administrative complaint during a designated grievance period. During that period, in order to determine if any assessments should be challenged, the Company undertakes a review of their assessments to determine whether they fall within a range of reasonableness when calculated under RCNLD. If the actual assessments are 25% higher than the RCNLD calculations and the property tax dollar amounts involved are significant, the Company files complaints with the applicable taxing authorities. The municipality must respond to the administrative complaint and it has been the Company's general experience that complaints are denied. Accordingly, after the tentative assessment roll becomes final, the Company files tax certiorari petitions with the applicable court to formally contest the final assessments. The Company makes every effort to settle these challenges by meeting with the assessors and with town or city officials, however, when efforts to reach a fair compromise fail, the Company pursues litigation.

Q. Please discuss the Company’s efforts to reduce property taxes in New York City.

A. We have continued negotiations with the New York City Law Department concerning the settlement of proceedings challenging the assessments on certain of Con Edison’s locally-assessed properties for the fiscal years 1994/1995 through 2014/2015.

In October 2015 Con Edison again filed real property tax petitions with the New York City Tax Commission seeking reductions of Con Edison’s 2015/2016 final tax assessments on real property. The filings were based on the real property tax assessment roll made final in May 2015. Each year such applications are filed for a great number of Con Edison’s properties that the Company views as over-assessed. Con Edison now has filings on a large percentage of its New York City properties dating back to fiscal year 1994/1995.

During 2013, Con Edison obtained a significant property tax refund from New York City. After extended negotiations with the New York City Law Department, a settlement was reached covering the production plant assets at the Hudson Avenue Station for the years 1994/1995 through 2011/2012 and at the Ravenswood and Astoria Stations, formerly owned by Con Edison, for the years 1994/1995 through 1998/1999. As a result of this settlement, the Company received a lump-sum tax refund of $140 million and in its February 21, 2014 order adopting rate plans in Con Edison Cases 13-E-0030, et. al., the Commission approved the distribution of the refund in the manner provided for by Con Edison’s previous and new rate plans. This distribution resulted in electric customers being credited with approximately $85.0 million, and steam customers with approximately $34.9 million. In addition, Con Edison has for several years secured the tax benefits provided under the Industrial and Commercial Incentive Program (“ICIP”) in New York City. The ICIP was instituted to encourage the development, expansion and preservation of commercial and industrial real estate. The ICIP grants a property tax exemption for the additional real property taxes that would otherwise be payable as a result of eligible industrial and commercial construction work. Con Edison has filed ICIP applications for projects involving the construction of new facilities and substations, substation renovations, and substation upgrades. The Company filed for and received the exemption for 20 projects, some of which included multiple filings, which, assuming current tax rates will generate more than $1 billion in tax savings over the course of their benefit periods, which range from 12 to 25 years. Despite efforts by Con Edison to extend the ICIP program, the program expired as of June 30, 2008. Con Edison continues, however, to receive benefits for the projects that were eligible under ICIP. During the 2015/2016 fiscal year, Con Edison estimates that the tax savings related to ICIP will amount to $65 million.

Q. Does the Company challenge its special franchise taxes?

A. Yes, the Company has open challenges on its special franchise taxes in New York City. Proceedings were commenced in Supreme Court, Albany County challenging the ORPTS special franchise full values for New York City's 2009/2010 through 2015/2016 assessment rolls. The court has consolidated the proceedings for trial and discovery has been largely completed.

The special franchise complaints allege that the ORPTS's application of the RCNLD methodology produces anomalous results that significantly overstate the value of special franchise property. The complaints are based on the ORPTS not properly taking into account the effects of:

- Changes in the cost of materials;
- Depreciation due to use of an artificial property age ceiling in relation to the property's average service life; and
- The proper level of Economic Obsolescence ("EO") and Functional Obsolescence ("FO").

Q. Does the Company receive EO and FO benefits?

A. Yes. Although we have challenged the amount of obsolescence allowances in our special franchise tax legal actions, Con Edison continues to apply for and receive EO and FO benefits. A request for an EO benefit is filed on electric and gas services and the FO benefit is filed on the Company's gas low pressure distribution mains. For 2016 we were approved for a reduction for economic obsolescence of 13% on our gas plant, which will be applied to the 2016 New York City special franchise full values. We also requested a reduction for obsolescence for excess capacity in the gas distribution low pressure system from ORPTS. The ORPTS will apply reductions for functional obsolescence on the gas distribution mains as follows:

City of Yonkers	9%
Borough of Bronx	11%
Borough of Manhattan	10%
Borough of Queens	8%

Q. Please discuss the Company’s other efforts to reduce property taxes in Westchester & Other.

A. The Company aggressively challenges property tax assessments outside of New York City. As detailed in our annual Property Tax Reduction Reports filed with the Commission, the Company has reached property tax settlements with many of the Cities, Towns, and Villages in Westchester and Upstate. These settlements cover a significant amount of the Company’s property outside of New York City and assessments continue to be monitored in all of these areas to see if additional challenges are warranted.

Q. Have there been recent successful challenges?

A. Yes. The Towns of Eastchester, Greenburgh, Mt. Pleasant, New Castle, North Castle, Ramapo, and Yorktown are effectively settled. All of these actions contest the level of assessment on certain of the Company’s property within the municipality.

Q. Are you sponsoring an exhibit related to the settlements?

A. Yes, we are sponsoring Exhibit __ (PTP-3) entitled "CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., SUMMARY OF NEGOTIATED PROPERTY TAX SETTLEMENTS for that purpose. This exhibit summarizes the term of the recent settlements and the tax savings expected over the terms of the settlements.

Q. Was Exhibit __ (PTP-3) prepared by you or under your direction and supervision?

A. Yes.

Q. Please discuss the settlements in Westchester County.

A. Our complaints challenged the tax assessments of some of the non-special franchise properties in the municipality, principally, substations and poles, gas mains, and wires on private property within the municipality. The settlements include assessment reductions that will be phased-in over a period of three years. Importantly, the settlements balance the interests of our customers and the local municipalities while avoiding costly and prolonged litigation.

Q. What was the result of your discussion with the Town of Ramapo?

A. Starting in 2014 and continuing into 2015 we had a series of meetings with representatives from the Town of Ramapo regarding the taxation of CECONY's and Orange and

Rockland's properties located in the Town. Those discussions are now complete. Our discussions have focused on improving the way our properties are currently valued, in order to be more consistent with the way ORPTS values property. The agreements with the Town of Ramapo were executed in August 2015 and are expected to be in place for the next ten years.

Q. Does the Company also pursue legislative avenues to mitigate its property tax liabilities?

A. Yes, the Company pursues and/or supports changes in law that could result in a reduction of its property tax liability. Con Edison has long supported a change to merge the two non-residential property classes (Classes 3 and 4) in New York City. This is based on the belief that a merger would put our property in a larger pool of properties and allow property tax assessment increases to be phased in thereby limiting the volatility of property tax assessment changes and tempering the negative effect of tax rate increases on the Company without reducing the City's property tax revenue.

Q. Has there been any progress on this?

A. There has been very little progress other than raising awareness of the issue. After several years of attempts, we no longer have either New York City's or the Real

Estate Board of New York’s support. Without the support of these major entities we believe it is unlikely that the merger of Classes 3 and 4 will occur absent overall property tax reform in New York City.

Q. Please discuss other legislative efforts by the Company.

A. Representatives of the Company have met with representatives from the NYS Department of Taxation and Finance to discuss a proposal on centralizing property tax assessments. Centralized assessment of the Company’s non-special franchise property would lead to cost efficiencies, promote uniform assessment practices and result in a lower likelihood of litigation challenging the method of determining assessments.

Q. Has the proposal advanced?

A. Yes, a proposal became law in 2013 but excluded electric, gas and steam utilities. The Company supported the legislation before that exclusion. We believe there are advantages to the ORPTS determining assessments for all of our taxable property and plan to seek inclusion in the future.

Q. How would the Company benefit under central assessment?

A. All properties that are valued locally would instead be valued by the ORPTS. We believe the ORPTS’s staff is in the best position to value utility properties due to their expertise and independence. Central assessment by the ORPTS would reduce the number of separate tax grievances that the Company files and would also provide for a uniform method of assessment state-wide. In addition, ORPTS property assessments are generally more current as the Company is required to report all of our property additions to the ORPS. On an overall basis, the ORPTS property assessments should result in tax reductions on many of our properties. In addition, central assessment could provide some financial relief to local governments, who must secure the expertise to value certain complex utility property and frequently must defend these assessments in court, resulting in appraisal and legal fees that could be avoided and property tax refunds if utilities are successful in their challenges.

Q. Does the centralized assessment law have a sunset date?

A. Yes, the law sunsets on January 1, 2019.

Q. Is there any other legislation being considered?

A. Yes, we strongly believe that the true market value of utility property for property tax purposes is rate base as opposed to RCNLD. We have discussed this approach to valuation with local officials and their concern is loss of revenue. However, beyond that using rate base for valuation purposes has a number of advantages. A concern of local officials has always been transparency on assessments and rate base offers that. Moreover it is a standard that is used in valuing utilities in merger and acquisition activities.

Q. Has your proposal progressed?

A. It is in its infancy but we plan to bring it to the legislature in the coming session.

Q. Does the Company keep the Commission and Staff apprised of the Company’s efforts to reduce its property tax obligations?

A. Yes. The Company prepares an annual report to the Commission of its efforts to reduce its property tax obligations. The report is filed with the Commission each March. The Company also meets with Staff to update them on property tax issues. Legislative efforts and accounting and assessment issues have regularly been part of that agenda.

Q. Is there any other topic that you would like to discuss?

A. Yes. We are working with Staff and other gas distribution utilities in the state to mitigate the property tax effects of accelerating replacing gas pipes that are targeted for replacement.

Q. What is the current status of that initiative?

A. On January 15, 2016 we met (“January Meeting”) with Staff and with representatives from the other New York State gas distribution companies in an effort to agree on an approach that would minimize or eliminate property tax increases related to our planned initiative to accelerate replacement of cast iron and bare steel gas main. All New York gas utilities are in the process of replacing such gas main, and we are working on a plan to complete the gas main replacement project without experiencing a large increase in property taxes as a consequence of implementing this replacement program. At the January Meeting Staff and the gas utilities agreed on a common approach to move forward with and we plan to regroup in mid-February 2015 to discuss individual gas utility results.

Q. Have you considered the effects of the Commission’s ongoing Reforming the Energy Vision (“REV”) proceeding (Case 14-M-0101) in your property tax forecasts?

A. No, we have not included anything in our forecasts to reflect the impact of REV, but we believe REV increases uncertainty related to property taxes, which argues further for full and symmetrical property tax reconciliation. For example, over time, integrating REV into a utility’s planning and operations may result in decreases in certain utility capital spending. Conversely, a utility's investment in large scale renewables may result in increases in utility capital spending. Decreases in capital investments will likely result in lower aggregate assessments for utilities shifting responsibility for property taxes to other taxpayers. Further, the current assessment practice does not include utility investments on customers' premises up to or behind the meters. (*e.g.*, meters and services from the curb in are not currently assessed). Solar panels, if owned by the homeowner, may increase the homeowner's property tax as arguably the home is more valuable than a comparable home without solar panels. Nor do we know how battery storage, located on customer premises and owned by the utility will be taxed. Finally, utility property may become impaired by distributed generation thereby leading to increased depreciation allowances for functional or economic obsolescence, thereby further decreasing utility assessments.

Q. Despite the Company's efforts to mitigate property taxes, do the Company's property taxes continue to increase?

A. Yes.

Q. Why?

A. The funds raised via the property tax levy are often the major revenue source used to finance county and local governments and public schools. The Company bears an inordinate share of the levied tax obligations determined by the taxing authorities seeking to raise the funds they determine are needed. Those needs, in concert with the Company’s activities resulting in increased capital investment, have historically resulted in higher tax bills for the Company despite successful Company challenges to assessed valuations of its property.

Q. Does this conclude the Panel’s direct testimony?

A. Yes, it does.