

BEFORE THE  
STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

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In the Matter of  
Consolidated Edison Company of New York, Inc.

Case 09-E-0428

August 2009

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Prepared Testimony of:

Henry Leak, III  
Public Utility Auditor III  
Office of Accounting and Finance  
State of New York  
Department of Public Service  
Three Empire State Plaza  
Albany, New York 12223-1350

- 1 Q. Please state your name and business address.
- 2 A. My name is Henry Leak, III. My business address is 3  
3 Empire State Plaza, Albany, New York 12223.
- 4 Q. By whom and in what capacity are you employed?
- 5 A. I am employed by the New York State Department of Public  
6 Service (Department) as a Public Utility Auditor III. I  
7 work full-time as a project manager in the Management  
8 Audit Section in the Office of Accounting and Finance.
- 9 Q. Please describe your educational background.
- 10 A. I received a Bachelors of Science in Accounting from the  
11 State University of New York Albany in 1978.
- 12 Q. Please summarize your professional experience.
- 13 A. Prior to working for the Department, I performed  
14 financial audits while working as an auditor for Peat  
15 Marwick and Mitchell & Company from 1978 to 1981. I was  
16 hired by the Department as an Associate Utility  
17 Management Analyst in October 1981. I worked in the  
18 Utility Management Audit Section until 1985 when I  
19 transferred to the Operational Audit Section in the  
20 Office of Utility Efficiency and Productivity. I then  
21 transferred to the Office of Accounting and Finance in  
22 1999. In 2007, the Management Audit unit was formed and  
23 I transferred to that unit.
- 24 Q. Have you performed or supervised management and

1 operations studies of New York State utilities?

2 A. Yes. While in the Utility Management Audit Section, I  
3 managed consultant-performed management and operations  
4 audits. I also worked on staff-performed audits in both  
5 the Utility Management Audit Section and the Operational  
6 Audit Section while assigned to the Office of Utility  
7 Efficiency and Productivity.

8 Q. Are you sponsoring any exhibits?

9 A. Yes, I am sponsoring one exhibit, Exhibit \_\_\_\_ (HYL-1).

10 Q. What is the purpose of your testimony in this proceeding?

11 A. Counsel advises that Section 66(19) of the Public Service  
12 Law (PSL) requires that "upon the application of a gas or  
13 electric corporation for a major change in rates as  
14 defined in subdivision twelve of this section, the  
15 commission shall review that corporation's compliance  
16 with the directions and recommendations made previously  
17 by the commission, as a result of the most recently  
18 completed management and operations audit. The  
19 commission shall incorporate the findings of such review  
20 in its opinion or order." A process has been commenced  
21 regarding a management audit of Consolidated Edison of  
22 New York, Inc. (Con Edison or the Company) performed by  
23 The Liberty Consulting Group. This report, is entitled  
24 "Final Report, Management Audit of Consolidated Edison of

1 New York, Inc.," dated June 16, 2009. The audit was  
2 performed by. By Order issued August 20, 2009 in Case  
3 08-M-0152, the Commission directed the Company to submit  
4 of an Implementation Plan (Plan). That plan has not been  
5 submitted and, therefore, I cannot testify on the  
6 Company's compliance with the August 20, 2009 Order at  
7 this time. Should there be anything to report at the  
8 time of the evidentiary hearing in this proceeding, I  
9 reserve the right to update this testimony.

10 Q. Please explain the Commission's directives regarding the  
11 Plan.

12 A. In its August 20, 2009 Order, the Commission directed Con  
13 Edison to develop a Plan to fully address the findings  
14 and recommendations contained in the Liberty Audit Report  
15 and file that Plan within 45 days, but not later than  
16 October 5, 2009. The Plan should contain an overall  
17 characterization of the relative priorities for each of  
18 the recommendations, implementation action steps,  
19 schedules with specific milestones, risk/cost/benefit  
20 analyses, and the designation of executive officer  
21 accountability. In addition, Con Edison must: meet with  
22 Staff after the issuance of the Order to discuss the  
23 development of the Plan; as part of the implementation  
24 plan, develop and implement an outreach effort to

1 interested parties and its various customer classes about  
2 what reliability means to each including how it is  
3 related to affordability of Con Edison's rates; address  
4 the extent to which implementation of certain  
5 recommendations will help the Company address issues  
6 raised in Cases 09-M-0243 and 09-M-0114 so to avoid them  
7 in the future; provide written updates on the Company's  
8 progress at least every four months; and, file testimony  
9 and related documents to create a complete record to  
10 demonstrate the nature and extent of its achievement of  
11 the goals and objectives in its implementation plan in  
12 any rate proceeding filed on or after the date of the  
13 Order. These respective cases involved: a comprehensive  
14 accounting examination and prudence investigation of the  
15 capital program and operation and maintenance  
16 expenditures of Con Edison.

17 Q. What recommendations were made in the Liberty Audit  
18 Report?

19 A. The Liberty Audit Report contains 92 recommendations that  
20 are listed in Exhibit\_\_ (HYL-1).

21 Q. Can you provide a summary of Liberty's report?

22 A. Liberty's report acknowledges that Con Edison operates in  
23 a complex and challenging business environment, where  
24 upgrading and maintaining its infrastructure is a costly

1 proposition that puts upward pressure on customers'  
2 rates, thereby making it imperative that Con Edison  
3 performs efficiently and effectively. In addition,  
4 Liberty notes that outages, recent safety concerns about  
5 electrified facilities, gas and steam incidents, and  
6 questions surrounding Con Edison's ability to adequately  
7 manage its construction program; have drawn increased  
8 attention from the public, politicians, and the  
9 investment community.

10 Liberty's report frames these dynamics as a three-level  
11 pyramid and believes that in order for Con Edison to  
12 ensure its future success, the Company must proactively  
13 and adroitly address matters in each level.

14 The more traditional management audit recommendations  
15 form the base of the pyramid. These are numerous, and  
16 while opinions may differ as to the resulting benefit and  
17 their manner of implementation there is general agreement  
18 among Con Edison, Liberty and Staff that they are  
19 necessary. Implementation (along with all  
20 recommendations in the report) will be detailed in the  
21 Company's Plan. There is concern, however, that unless  
22 improvements in the two higher levels of the pyramid  
23 occur, that the benefits resulting from implementing  
24 these recommendations could be transitory and perhaps not

1 fully realized. This is because the higher levels of the  
2 pyramid address some of the root causes for problems  
3 existing at the lower levels.

4 The mid-level recommendations, while also typical of  
5 management audits, differ from those in the base level  
6 because of their widespread impact throughout the  
7 organization. The four recommendations that rise to this  
8 level are of paramount importance, and they are: 1) Con  
9 Edison needs to develop an integrated vision or plan for  
10 the electric system and link capital investment to  
11 economic or value driven parameters; 2) Con Edison needs  
12 to have a heightened involvement by its Board of Trustees  
13 in the planning and budget process; 3) Con Edison needs  
14 to develop a more holistic approach to cost management;  
15 and, 4) Con Edison needs to become less reliant on the  
16 annual rate cases to manage its business. The  
17 consequences of not implementing these recommendations  
18 could potentially undermine the full achievement of the  
19 benefits from other recommendations.

20 These are management issues that require executive level  
21 attention in order to better ensure the success of Con  
22 Edison's construction and infrastructure management  
23 programs. Liberty also labeled these four items as  
24 "straw men" and engaged Con Edison early in the audit for

1 feedback. Liberty found different levels of acceptance,  
2 understanding and buy-in from Con Edison on these four  
3 key matters which in some ways lead to the final and most  
4 important top level of the pyramid.

5 Liberty labeled the issues rising to the top level as  
6 "barriers," and identified four broad categories of  
7 barriers, which are Cultural, Environmental, Financial  
8 and Regulatory. These are somewhat atypical management  
9 audit findings, because rather than specific  
10 recommendations prone to objective measurement, they are  
11 more subjective, and are not so much recommendations as  
12 they are instead challenges (both internal and external)  
13 that Con Edison must overcome. Successful navigation by  
14 Con Edison of these barriers will increase the likelihood  
15 of ensuring that benefits resulting from implementing  
16 report recommendations are more than ephemeral and  
17 position Con Edison best for long-term success. Examples  
18 would include such items as being more adept at  
19 identifying root causes of problems, understanding the  
20 limits of the rate process as a solution to financial  
21 problems, and improving its credibility with  
22 stakeholders. Addressing the specific recommendations in  
23 the report with the backdrop of the barriers in mind is  
24 key to Con Edison's success in the future.

1 Q. Do you have any recommendations going forward?

2 A. Yes. The Company should be directed to identify the  
3 Audit Report recommendations that would be completed in  
4 the next three years, along with the anticipated costs  
5 and benefits. It is reasonable to expect that any cost  
6 savings or benefits should be deferred for ratepayer  
7 benefits.

8 Q. Does this conclude your testimony at this time?

9 A. Yes.