BEFORE THE
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of

Consolidated Edison Company of New York, Inc.

Cases 13-E-0030, 13-G-0031, and 13-S-0032

May 31, 2013

Prepared Testimony of:
Staff Policy Panel

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Q. Would the members of the Staff Policy Panel please state your names, employer, and business addresses?

A. Our names are Kin Eng, Kevin Higgins, Martin Insogna and Marco Padula. We are employed by the New York State Department of Public Service (Department). Our business address is Three Empire State Plaza, Albany, New York 12223 and 90 Church Street, New York, New York 10007.

Q. Mr. Eng Please describe your educational background.

A. I graduated from New York Technical College with an Associate in Applied Science Degree in Electrical Technology in 1986.

Q. Please describe your responsibilities with the Department and professional experience.

A. I joined the Department in 1981. I supervise the Electric Distribution Systems Section in the Office of Electric, Gas, and Water in New York City. My current responsibilities include: monitoring utility operations to determine if facilities are operated and maintained in accordance with appropriate codes and safe operating practices; ensuring that utilities are adequately prepared to respond to emergencies by reviewing utilities' electric emergency plans and attending annual emergency drills; and, monitoring utility operation and maintenance activities to ensure acceptable electric service reliability. I have been involved in many investigations of electric utility service disruptions, including Superstorm Sandy in August 2012, Hurricane Irene and the October Nor’easter in 2011, the February Snowstorm in 2010, the Westchester Outages in January 2006, the Long Island City Network outages in 2006, the Jodie Lane Fatality Investigation, the August 2003 Blackout, the September 11th terrorist attack in 2001, and the Washington Heights outages in 1999.

Q. Have you previously testified before the Commission?

A. Yes, I testified in the following Consolidated Edison Company of New York, Inc. (Con Edison or the Company) electric rate cases, 04-E-0572, 07-E-0523, 08-E-0539 and 09-E-0428.

Q. Mr. Higgins, what is your position at the Department?

A. I am employed as a Supervisor in the Office of Accounting, Audits and Finance. I joined the Department in June 1987.

Q. Please briefly describe your educational background and professional experience.

A. I am a graduate of the State University College of New York at Oneonta with a Bachelor of Arts degree in Business Economics. I also earned an Associate degree in Accounting from Morrisville State College.

Q. Please describe your responsibilities with the Department.

A. My work as a Supervisor includes the examination of accounts, records, documentation, policies and procedures of regulated utilities so as to develop issues for electric, gas, telecommunications and water rate proceedings, financing petitions, rate of return studies and other general accounting matters.

Q. Mr. Higgins, have you previously testified before the Commission?

A. Yes, I have testified in many proceedings. Most recently, in Con Edison's last two electric rate cases, 08-E-0539 and 09-E-0428.

Q. Mr. Insogna, what is your position in the Department?

A. I am employed as a Utility Consumer Program Specialist 5 in the Office of Consumer Policy.

Q. Please summarize your educational and professional background.

A. I hold a Bachelor's Degree in philosophy and economics from Colgate University. Prior to joining the Department, I was employed in a wide range of customer service fields, including a representative of the then New York Telephone Company. I joined the Consumer Services Division of the Department in 1990 as a Consumer Services Specialist, investigating and resolving utility consumer complaints. In April 1994, I was accepted into a traineeship with the Office of Energy Efficiency and Environment, with responsibility for policy and operational considerations involving utility energy efficiency and emerging environmental issues. In March 1998, I was promoted to the title of Associate Utility Rate Analyst and transferred to the Electric Division, with responsibility for review and analysis of utility rate and rate-related filings. When the Department was reorganized in 1999, I was assigned to the Retail Competition section of the Office of Electricity and Environment, with responsibility for a wide variety of initiatives related to the introduction of retail access. In January 2000, I was promoted to the title of Associate Policy and Compliance Analyst and transferred to the Residential Advocacy section of the Office of Consumer Education and Advocacy. The Department of Civil Service subsequently reclassified the title of Associate Policy and Compliance Analyst to Utility Consumer Program Specialist 4. After Departmental reorganizations in 2003 and 2009, the Office of Consumer Policy assumed responsibility for consumer advocacy functions. In August 2008, I was promoted to my current title.

Q. Please briefly describe your current responsibilities with the Department.

A. I oversee Staff that monitors utility compliance with Public Service Law and Commission regulations regarding consumer protections and access to service, analyzes utility customer service quality performance and responds to customer needs, promotes access to affordable utility services for low-income and other special needs customers and addresses residential and small business customer interests in utility rate cases and other Commission proceedings.

Q. Have you testified in any prior proceedings?

A. Yes. I have previously testified in proceedings concerning Orange and Rockland Utilities, Inc.; New York State Electric and Gas Corporation; Niagara Mohawk Power Corporation, d/b/a National Grid; Rochester Gas and Electric Corporation; KeySpan Energy Delivery New York and KeySpan Energy Delivery Long Island; and Con Edison. The subjects of my previous testimony include energy efficiency programs, system benefits charge implementation, rate design, consumer protections, service quality, low income customer needs, outreach and education, informational advertising, call center operations, credit and collections, utility metering, commodity supply pricing and bill formats.

Q. Mr. Padula, what is your position in the Department?

A. I am employed as a Utility Supervisor in the Major Utility Rates section of the Office of Electric, Gas and Water. I joined the Department in 1994.

Q. Mr. Padula, please briefly state your educational background and professional experience.

A. I received a Bachelor of Science Degree in Electrical Engineering from Northeastern University in 1990 and Master of Business Administration from Rensselaer Polytechnic Institute in 1998. From 1990 to 1994 I was employed by IBM as an Electrical Engineer responsible for the design and development of high performance power/thermal control systems for mainframe computers.

Q. Please briefly describe your current responsibilities with the Department.

A. My current responsibilities include electric, gas and steam utility revenue allocation and rate design, computer simulation of electricity production, transmission and pricing and wholesale electric market issues. I also serve as Staff co-leader on Con Edison electric, gas and steam rate cases.

Q. Have you previously testified before the Commission?

A. Yes. I have testified on operating and maintenance expenses in Cases 94-G-0885 and 03-S-1672 and on embedded cost of service studies and rate design in Cases 04-E-0572, 05-S-1376, 07-E-0523 and 07-S-1315, and, the Stand-by Service proceedings. I also testified on policy issues in Cases 08-E-0539 and 09-E-0428 and on cost allocation issues in Cases 09-S-0029 and 09-S-0794.

Q. What is the purpose of the Panel's testimony?

A. We will address the following:

- Earnings Sharing Mechanism;
- Management Compensation;
- Use of Corporate Name;
- Rate Reduction Options;
- Multi-Year Rate Plan Option;
- Transfer of Hudson Avenue Steam Assets to the Electric Department;
- Net-Plant Reconciliation;

- Municipal Infrastructure O&M Reconciliation;
- Pipeline Safety Act of 2011 O&M Reconciliation;
- Generation Retirement Capital and O&M Reconciliation;
- Capital Spending Reporting;
- Storm Hardening;
- Gas Depreciation Reserve;
- Rate Adjustment Clause;
- SIR Amortization;
- Deferred Accounting Related to Oil-to-Gas Conversions;
- Steam Weather Normalization Clause;
- Reserve Accounting for Gas, Steam & Electric Storm Costs;
- Deferred Major Storm Cost Review Process;
- Inclusion of Excelsior Jobs and Recharge NY program in the Revenue Decoupling Mechanism (RDM);
- Proposed Change to the RDM for Electric and Gas; and,
- Application of Current Electric, Gas and Steam Rate Plan Provisions.

Q. In your testimony, will you refer to, or

otherwise rely upon, any information produced
during the discovery phase of this proceeding?
A. Yes, we will refer to, and have relied upon, several Company responses to Department Staff's (DPS) Information Requests (IRs). These responses are contained in Exhibit___SPP-1.
Q. Are you sponsoring any other exhibits?
A. Yes, we are sponsoring Exhibit___SPP-2, which contains our recommended revised language for the Company's Standards of Competitive Conduct, regarding the use of the Con Edison corporate name.

Earnings Sharing Mechanism

Q. Does the Policy Panel recommend that the Commission implement Earnings Sharing Mechanisms (ESMs) in these proceedings?
A. No. Staff is only presenting recommendations with respect to a single rate year and ESMs have only been approved in the context of multi-year rate plans. Typically these ESMs are established through negotiated settlements subject to Commission approval.
Q. Why are ESMs appropriate in multi-year rate plans?

A. First, since settlement involves multiple years and, therefore, longer forecasting periods, Staff finds them to be necessary to reflect the greater uncertainty associated with staying out beyond a single rate year. By incorporating ESMs into multi-year proposals, the Commission mitigates against potential windfalls that may result due to the uncertainties of staying out for longer than a single rate year. The second reason is to encourage greater efficiencies that will ultimately inure to the benefit of ratepayers when rates are reset. Multi-year rate plans can incent greater efficiencies than may otherwise have occurred because the Company will share in earnings above its recommended return on equity.

Q. What options could the Commission consider to allow for earnings sharing after the rate year if the Company decides not to file for new rates?

A. The Commission always has the ability, as it did recently in the case of National Fuel Gas Distribution Corporation, to institute a show cause proceeding in the event a utility stays out beyond the term of its rate plan. In addition, it could adopt ESMs in these proceedings that go into effect immediately after the rate year. For example, the mechanisms could require the Company to share 80% of any earnings above the allowed return on equity to be deferred for ratepayer benefit.

Management Compensation

Q. Please summarize the Commission's requirements regarding what utilities must demonstrate in order to recover the costs of incentive compensation in rates.

A. In Case 10-E-0362 and its subsequent rehearing order, the Commission provided utilities with two alternative routes for funding of management compensation plans in rates: show that the level of total compensation, including incentive pay, is reasonable and comparable, and that plan objectives do not conflict with customer interests or Commission policies; or treat incentive pay as an award or bonus, but show that the plan provides quantifiable ratepayer benefits.

Q. Has Con Edison demonstrated, with a compensation study of similarly situated companies, that total compensation, inclusive of incentive compensation, for its employees is reasonable?

A. As described in greater detail by Staff witness Edmundson, the total compensation study Con Edison uses to determine the market competitiveness of its benefits and compensation package addresses the methodological criticisms regarding total compensation studies that the Commission raised in previous cases. Staff, therefore, finds that the Company met its burden of demonstrating that its total compensation package is reasonable and comparable to its peer companies. The study does, however, suffer from certain other methodological flaws and clear opportunities exist for Con Edison and other utilities submitting future requests for ratepayer funding of variable pay plans to improve their demonstrations of the comparability of these plans with those of their peers. Ms. Edmundson’s testimony provides recommendations for improving future studies.

Q. Does the study of comparability satisfy the Commission’s requirements for ratepayer recovery of Con Edison's management compensation plan?

A. Not entirely. When the total compensation package, inclusive of incentive compensation, is deemed reasonable, the Commission stated that its concerns about the relationship of incentive plan objectives to customer interests is substantially diminished, but did not disappear. At a minimum, the Company still must show that the plan includes no elements that could potentially be adverse to ratepayer interests or promote results inconsistent with Commission policies. While we acknowledge that no such study can provide results with 100% confidence, given the weaknesses of the Company's comparability study as discussed in Ms. Edmundson's testimony, the finding of comparability is less certain, and therefore the concerns about plan objectives may be less diminished. The Commission may determine that an evaluation of the quantifiable and demonstrable benefits of Con Edison's compensation program to ratepayers is warranted.

Q. Please summarize the performance measures and financial goals on which the variable pay component is based.

A. The variable pay component of base compensation is earned if the Company reaches pre-set performance goals, including Safety Index, Electric Reliability, Electric Network Availability, Electric Non-Network System Availability, Response to Gas Odor Complaints, Gas Leak Backlog, Steam System Pressure, Generation Station Outages, PSC Complaints, Customer Calls Answered, Customer Satisfaction Surveys, Meter Reads on Cycle, Environmental Performance and Employee Development. The performance goals also encompass targets applicable to operating and capital budgets, timely completion of capital and operating projects and programs and adjusted net income. In addition to measuring performance against budgets, operating and capital budget targets also measure timely and cost-effective completion of specified programs and projects. Finally, if the goals are not fully achieved, any unpaid amount of the variable component would be credited to customers.

Q. Did the Company revise the structure of its incentive compensation plan?

A. Con Edison revised the structure of its incentive compensation plan such that the achievement of the adjusted net income target is no longer a threshold requirement as it was in the past. Previously if the Company failed to meet the adjusted net income threshold, none of the other performance incentives were available. The achievement of financial parameters also comprises a smaller percentage of the Company's variable component of management pay. Achievement of reliability, safety and customer service performance indicators are set at 50%, the capital and operating budget goals each comprise 15% respectively and the income target is set at 20%.

Q. Does Con Edison's compensation plan promote employee behavior that would be adverse to ratepayer interests or Commission policies?

A. Not overtly so. In many cases, the performance goals are directly linked to the same reliability, safety, and customer service performance standards on which the Commission applies shareholder incentives, and therefore are consistent with the goal of providing safe and reliable service. Even among those not linked to shareholder incentives, none are apparently contrary to ratepayer interests, although any incentive scheme can have unintended or perverse consequences.

Q. Does Con Edison's compensation plan provide incremental quantifiable or demonstrable benefits to its ratepayers in a financial sense or in terms of enhanced reliability, reduced environmental impact or improved customer service?

A. That is less clear because the performance targets are, in most cases, the same as those established for the corresponding shareholder incentives. As a function of their earnings consequences to the Company, we would expect sufficient management attention to these goals because of the threat of negative rate adjustments under the Commission's shareholder incentives. Such incentives furnish a deterrent against deterioration of service, rather than a bonus for achieving excellence. The Company appears to regard its management compensation plan in much the same way: its total compensation package for managers is reasonable and in line with its peers only when incentive compensation is included; and managers are penalized by loss of the incentive compensation portion for failure to meet the targets. Since there are likewise no bonuses for excellence, however, the incentive plan seems unlikely to produce superior customer service, or safer or more reliable service, although it arguably provides greater assurance that the Company will meet its shareholder incentive targets, and thereby provide satisfactory service.

Q. Did the Company attempt to quantify any incremental ratepayer benefits?

A. No.

Q. Please summarize you findings and conclusions.

A. In sum, Con Edison presents a plan that appears not to provide bonus pay, although that conclusion is uncertain; and is not detrimental to ratepayer interests, although there is little incremental benefit.

Q. Do you recommend the Commission allow the costs of Con Edison’s management compensation plan to be recovered in revenue requirement?

A. Given that the Company has complied with all of the requirements regarding such studies established by the Commission in prior cases, and even those recommended by Staff in past cases, though not adopted by the Commission, we recommend that the Commission allow the costs of the management compensation plan to be recovered in rates. In the future, utilities should be directed by the Commission to comply with the additional recommendations made by Ms. Edmundson regarding such studies, and Con Edison should be directed to file such a study in support of any future proposal to recover these costs in rates. If the Commission determines in these Cases that the Company has not met its burden of showing comparability, we cannot conclude that the plan provides incremental ratepayer benefits, and recommend that the costs of the program be disallowed

Q. Do you have any other recommendations concerning the Company’s management compensation plan?

A. Yes. In order to maintain the principle that the plan does not promote employee behavior that is contrary to customer interests or Commission policies, the performance targets must, at a minimum, remain consistent with the corresponding targets for the Commission's shareholder incentives. For example, Staff in these Cases is proposing adjustments to the targets for PSC Complaint Rate and Calls Answered. If the Commission adopts these recommendations, the targets for the management compensation plan should be adjusted accordingly. In addition, Con Edison should incorporate the performance measures and targets for any new shareholder incentives that are implemented by the Commission. For example, in Case 13-E-0140, the Commission is considering the development of a tool for the quantitative assessment of New York State electric utility performance in restoring power to customers after a significant outage. A proposed Utility Scorecard has been issued for comment, which would establish criteria for qualitative assessment of utility restoration performance, and which potentially could form the basis for assessment of civil penalties against utilities for poor performance. At the point where such a scorecard has been adopted, Con Edison should incorporate those performance measures into its Management Compensation plan.

Use of Corporate Name

Q. Does Con Edison have Standards or Codes of Conduct?

A. Yes, Con Edison's Code of Conduct was implemented in Case 96-E-0897. It addresses corporate structure as well as affiliate transactions. The Currently effective version was adopted by the Commission in Case 98-M-0961, in the Commission's Order Authorizing Merger, issued April 2, 1999.

Q. Does it address the use of the Company's name or trademark by non-affiliates?

A. No.

Q. Does the Panel have any recommendations concerning use of the Con Edison corporate name?

A. Yes. We believe that, with limited exceptions, no non-affiliate entity should be allowed by Con Edison or Consolidated Edison Incorporated (CEI) to use the Con Edison name, trade names, trademarks, service marks or a derivative of a name of Con Edison. Exhibit___SPP-2, on pages 1 - 2, contains our recommended revised language for the Company’s Standards of Competitive Conduct, regarding the use of the Con Edison corporate name. Additionally, that exhibit, on pages 3 – 11, contains a copy of the currently effective Revised Con Edison Corporate Structure Conditions, including the Standards of Competitive Conduct.

Q. Why does the Panel make this recommendation?

A. Given the context of industry deregulation and promotion of competition in energy markets, we have seen instances in recent years, where utilities have either sold off unregulated subsidiaries, or licensed the use of their corporate name or trademark to third parties, such as HomeServeUSA, a firm that offers emergency repair service contracts. These arrangements can cause significant customer confusion and perceived deception, particularly if the entity’s solicitations cause customers to perceive the solicitation as coming from the utility itself, and not an independent business.

Q. Has the Commission acted to address such situations through modifications to Standards of Conduct?

A. Yes. In Case 10-E-0050, in the Commission adopted rate plan provisions for Niagara Mohawk Power Corporation d/b/a National Grid that modified certain corporate structure and affiliate rules provisions, including those addressing use of the corporate name and royalties. In addition, in Case 12-M-0192, the Commission is considering a joint proposal for approval of the acquisition of CH Energy Group, Inc., the holding company of Central Hudson Gas and Electric Corp. (Central Hudson) by Fortis Inc., which includes amended standards of conduct which prohibits the use, by non-affiliates, of the Central Hudson’s name, trade names, trademarks, service marks or a derivative of a name of Central Hudson in any manner.

Q. Are there any special considerations that should be taken into account in implementing this recommendation for Con Edison?

A. Yes. The trademarks registered by the Con Edison and/or CEI are often licensed for use in movie and television productions; and, less frequently, for the joint marketing of energy efficiency programs and to industry organizations to which Con Edison is a member. As shown in its response to DPS-603, the Company reviews such requests on a case-by-case basis, and does not grant licenses for uses that reflect poorly on the Company, its customers or its service territory; or otherwise do not conform to the Company's standards. The response also indicates that, with one exception over the last five years, no fees were collected for the granting of such licenses. Con Edison is a prominent presence in New York City-- one of the world's most popular movie and television filming locations, and such unique and occasional uses pose no anticompetitive or customer confusion concerns. With regard to joint marketing of energy efficiency programs, the Company should be able to license the use of its name and logo to the entities carrying out Commission approved programs.

Rate Reduction Options

Q. What changes in electric, gas and steam revenue requirement is Staff recommending for the rate year ending December 31, 2014?

A. Staff is recommending revenue requirement decreases for electric, gas and steam service of $181.180 million, $126.117 million and $27.997 million, respectively.

Q. Are Staff's recommended revenue requirements indicative of the forecasted costs of providing service or have the revenue requirements been materially impacted by proposed applications of rate moderators?

A. Staff's recommended revenue requirements have not been significantly impacted by application of rate moderators and therefore are generally indicative of the forecasted costs of providing service. The Company's expiring multi-year rate plans contain myriad reconciliation provisions that have resulted in extensive regulatory deferrals. These regulatory deferrals represent amounts either due the Company, known as regulatory assets or amounts due customers, known as regulatory liabilities. The balances of the regulatory assets and liabilities are quite significant, respectively. However, the cumulative balances of regulatory assets and liabilities generally offset each other.

Con Edison has proposed, with limited exceptions, a three year amortization period for regulatory deferrals. Staff supports the Company's proposed amortization periods. Since the cumulative regulatory liabilities exceed the cumulative regulatory assets, there is some moderation of the cost of service recommended by Staff. As a result of the proposed application of regulatory deferral balances, the electric revenue requirement has been reduced by $6.1 million, the gas revenue requirement has been reduced by $5.5 million and the steam revenue requirement has been reduced by $13.8 million.

Q. Do these regulatory deferrals offer the Commission options in determining the Company's revenue requirements?

A. Yes. While we believe that the Company has made a reasonable proposal for the disposition of the regulatory deferrals, the disposition determination is ultimately the Commission's. The myriad of regulatory deferrals potentially provides the Commission with a myriad of options for their disposition. Should the Commission desire to further mitigate the Company’s revenue requirement for the rate year, it could either extend the amortization period of regulatory assets, i.e., deferred costs associated with Super Storm Sandy or shorten the amortization period of regulatory credits i.e. property tax over-recoveries. Similarly, should the Commission desire to adjust the revenue requirements upward, the amortization period of regulatory credits could be lengthened or eliminated and/or the amortization period of regulation assets could be shortened.

Q.   Are there any other options available to the Commission should it desire not to reduce electric, gas and steam rates at this time.

A.   The Commission could leave current electric, gas or steam rates unchanged and require the Company to defer the revenue requirement decreases to mitigate any future rate impacts.

Multi-Year Rate Plan

Q.   Did the Company include financial information for each service for periods beyond the rate year ending December 31, 2014 in its filing?

A. Yes. The Company included, for illustrative purposes only, financial information for each service for two years beyond the rate year. In particular, the Company presented revenue requirement calculations for the two rate periods ending December 31, 2015 and December 31, 2016.

Q. Did Con Edison propose multi-year rate plans as an alternative to its one-year cases?

A. No. The Company filings seek Commission approval for rates for each service for just the rate year ending December 31, 2014. However, the Company states that it is interested in pursuing, though discussions with Staff and interested parties, multi-year rate plan proposal to the Commission for each service. The Company believes that the financial information it presented for each service could form a basis for discussions to address multi-year rate plans.

Q. Is Staff proposing multi-year plans?

A. No. Staff’s filings recommend rates for each service for only the rate year ending December 31, 2014. However, Staff is open to pursuing, though settlement discussions with the Company and interested parties, multi-year rate plans that would be in customer's interest. We believe our direct cases would form the basis for discussion to address multi-year rates plans for the Company's electric, gas and steam services.

Transfer of Hudson Avenue Steam Assets to the Electric Department

Q. Please describe the Company's proposed transfer of its Hudson Avenue steam assets to the Electric Department.

A. The Company proposes to transfer the Net Book Value of the unusable and retired in place Hudson Avenue Steam Plant from the Steam Department to the Electric Department on the basis that the site has value for future electric system uses. The Company proposes to reflect the unrecovered cost in electric rate base and amortize it over 20-years. The Net Book Value to be amortized is $92.3 million which equals $127.5 million original cost less $35.2 million accumulated depreciation. The Company also proposes to transfer responsibility for any demolition or site remediation cost from the Steam Department to the Electric Department. The Company states that it has already transferred the book value of the land of, approximately $1.7 million, to the Electric Department and is booked as Electric Plant Held for Future Use. We note that in its preliminary steam update, the Company mistakenly kept the net cost of the retired plant in its steam revenue requirement calculation.

Q. Why is the Company proposing this transfer?

A. The Company states that it contemplates no future Steam Department use for the site, but it believes that the site is valuable for future Electric Department use, particularly since it is zoned for utility use and is adjacent to four existing substations, associated feeders and the Manhattan and Brooklyn load centers.

Q. Do you agree with the Company's assessment?

A. No. There are several reasons why the Company's proposed transfer should not be approved at this time. First, as described by the Company's Electric Infrastructure and Operations Panel, the current estimated need for the site is scheduled for 2022, when the Hudson Avenue Distribution Switching Station would be needed under current forecasts, and that would only require a portion of the site. Any other future uses are speculative at this time and would not be necessary until the period 2024 through 2029. In other words, there is simply no immediate need for the property and no definitive plan for its use. Second, we have concerns regarding the potential costs being shifted to electric customers without having any understanding of the magnitude of the costs. The Company states in response to DPS-90 that it could not reasonably estimate the level of the cost of demolition required until specific projects are developed, designs are laid out within the footprint of the site and civil/structural requirements are established. While the Company states that the uncertain future cost of demolition should not be an impediment to retaining the property, it is relevant to assessing the level of risk of the transaction that the Commission must consider. Third, while the Company argues that the station has historically had a substantial connection to the Company’s electric business, the station has actually been assigned to the steam business for a long period of time. Fourth, the Company’s testimony is not backed up by any studies or analysis. Rather than providing a thorough examination, the Company’s response to DPS-90 and its Electric Infrastructure and Operations Panel offer vague assurances, such as "it would most likely be difficult and costly to obtain real property zoned for utility use” and "there is not likely a comparable cost-effective site to meet load pocket requirements in Manhattan in the future" and "we feel confident that this property will eventually serve our electrical customers cost effectively." Finally, the Company did not provide any reasons for not transferring the property at fair market value, other than explaining that the land transfer was done in accordance with Section 463.13 of the Commission’s Uniform System of Accounts for steam corporations.

Q. What should be required before any transfer is approved by the Commission?

A. At a minimum, the Company should be required to conduct a study of the proposed transfer, demonstrate the expected costs and benefits to both steam and electric customers and consider various options such as the sale of the property to a third-party. This study should review and present a complete accounting of the share of ownership, investment and cost recovery between steam and electric customers over the life of the facility. The study should also include an examination of the environmental liabilities that go along with the property and the expected mitigation costs, a current appraisal of the property to determine fair market value and a detailed estimate of the demolition costs along with a full analysis of whether or not the transfer should take place at fair market value and the associated accounting that would be required.

Q. Is it reasonable to continue carrying the Hudson Avenue steam assets within the Steam Department until a more detailed analysis is performed by the Company and reviewed by the Commission?

A. Yes. Given the number of uncertainties related to this transfer, it is reasonable to keep the Hudson Avenue assets with the Steam Department until a full and complete analysis is presented to the Commission.

Construction and Plant-in-Service Model

Q. Did the Company submit a construction and plant-in-service model in this case?

A. Yes, however, it was not provided with the initial filing. In fact, it was not provided until March 15, 2013, or about 50 days after the Company’s January 25, 2013 initial filing date.

Q. Did the Company made any changes to the way it forecasts construction expenditures and plant-in-service?

A. Yes. The Company converted to a completely new system to forecast construction and plant-in-service. In prior rate cases it used a Microsoft Excel based model. It now uses what is called a Hyperion Planning model, a part of its new computer and software system.

Q. Did this impact Staff’s ability to evaluate Con Edison’s construction and plant-in-service forecast?

A. Yes. Staff’s ability to audit the Company’s plant-in-service forecast was hindered. Staff did not have access to the Hyperion Planning model and was only provided with a validation model that simulated the inputs and outputs reflected in the Company's new Hyperion Planning system. In addition, as noted above, the validation model was not included with the Company's initial rate filing, but rather provided some 50 days later.

Q. Have you identified any errors in the validation model?

A. Yes. In fact, even in the limited time Staff had to examine the model, we found that it contained numerous significant errors that impacted the Company's revenue requirements, and included several instances where inputs were modified to create a desired forecast.

Q. Does the Panel view the validation model as a reliable predictor of the Company's rate year construction and plant-in-service?

A. While we have corrected for a number of significant errors, the validation model contains thousands of inputs, all of which could not be examined in the short amount of time provided for during the discovery phase of these proceedings. While we tentatively recommend various adjustments to the Company's construction and plant-in-service forecasts, the results of the model impact numerous major cost of service elements, including plant-in-service, depreciation expense, depreciation reserves, construction work in progress, state and federal income taxes, and accumulated deferred income taxes.

Q. Does the Panel have a recommendation to address the deficiencies in the Company's plant-in-service model?

A. While we do not have a specific recommendation to address the deficiencies at this time, because of the potential for additional material errors, Staff reserves the right to recommend further adjustments in these proceedings should it find additional errors as it continues to evaluate the Company's validation model.

Net-Plant Reconciliation

Q. Please summarize the Company's proposal to revise the existing net-plant reconciliation mechanisms for the electric, gas and steam businesses.

A. The Company is proposing to continue the downward reconciliation, based upon a single net plant target; that forecasts the Company's expenditures, some of which may turn out to be somewhat higher than forecasted and others lower; and a limited opportunity for upward reconciliation where the reason for exceeding the aggregate net plant target is expenditures that result from circumstances outside the Company's control. The Company includes Municipal Infrastructure capital projects impacting Company facilities in accordance with schedules and scopes of work established unilaterally by the municipality and other circumstances for which an immediate response may be required such as facilities required as a result of generator retirement or mothballing, implementation of new cyber security requirements and/or implementation of the Federal Energy Regulatory Commission's (FERC) new definition of bulk power facilities. For electric, the Company would continue to address capital expenditures associated with the

Enterprise Resource project on a stand-alone basis.

Q. Does the Panel agree with the Company's proposed net-plant reconciliation mechanism changes?

A. No. We recommend continuing the downward-only reconciliations of net plant targets for all three services. These reconciliation mechanisms have provided ratepayers with important protections against under-spending that would otherwise not be captured through traditional rate making. In addition, the rate setting process is not always symmetrical. A utility may not have any incentive to inform the Commission of excess profits, but has a compelling incentive to request rate relief when profits are lower than expected. The continuation of the downward reconciliation mechanisms recommended here balances the fact that the Company's forecasted budgets have contingency factors that in many cases come in much lower than its actual spending. The Company has control over the timing of its spending and, slippage in construction has been known to occur. Finally, and perhaps more importantly, the unreliable plant-in-service model provides further support that these downward reconciliation mechanisms are warranted.

Q. Do you recommend reconciliation by the specific categories of electric transmission and distribution, electric Production, shared services, electric municipal infrastructure, steam production, gas transmission and distribution, gas municipal infrastructure, steam production, steam distribution and steam municipal infrastructure?

A. Yes. With all the improvements in the Company's budgeting process, which are described by Company witness Muccilo as being comprehensive and disciplined, the Company should be able to forecast and manage its budget by category with greater accuracy. In addition, a new category should be added in electric, gas and steam for storm hardening capital expenditures, as we will explain later in our testimony.

Q. Should the Company have a limited opportunity for upward reconciliation of carrying charges when exceeding the aggregate net plant targets resulting from circumstances outside the Company’s control?

A. No. In a one year rate case, given that the Company manages a multi-billion dollar capital expenditure budget, it should be capable of managing the risk of having to spend more than forecasted in the rate year, either by deferring or eliminating other projects or by foregoing the return on the added investment for the short period of time until rates are reset, at which time it earns a return of and a return on the investment for the life of the project, if those investments are determined to be prudent and used and useful.

Municipal Infrastructure O&M Reconciliation Mechanism

Q. Please summarize the Company’s proposal to modify the current municipal infrastructure O&M expense reconciliation mechanisms.

A. The Company is proposing that full and symmetrical reconciliation mechanisms replace the partial and asymmetrical reconciliation mechanisms currently in effect under the Company’s electric, gas and steam rate plans.

Q. Does the Panel agree with this proposal?

A. No. The current reconciliation mechanisms for Con Edison and other utilities are all part of multi-year rate agreements. For a one year rate case, the Commission should adopt the Municipal Infrastructure O&M expense levels proposed by the Staff Municipal Infrastructure Panel, with no reconciliation upward or downward. These forecasts represent current trends in New York City's (the City) infrastructure projects and the most reasonable estimate of the Company's interference expenses. The Company should have the incentive during the rate year to manage these costs like any other O&M expense. With a symmetrical reconciliation as proposed by the Company, that incentive does not exist.

Pipeline Safety Act of 2011 O&M Reconciliation

Q. Please summarize the Company's proposal related to the reconciliation of O&M expense associated with the Pipeline Safety Act of 2011.

A. The Company requested an increase in O&M expense of $800,000 to support new mandated in-line testing of gas transmission pipelines. It claims that because it is difficult to predict the full impact of the Department of

Transportation regulations during the rate year, it is proposing that the Commission provide the Company the opportunity to defer O&M expense in excess of $800,000, the Company’s current rate year projection, for costs related to compliance with the Pipeline Safety Act of 2011.

Q. Does the Panel agree with this proposal?

A. No. For a one year rate case, the Company’s proposed one-way reconciliation should be rejected. The Staff Gas Safety Panel does not oppose the $800,000 request and it is included in Staff’s proposed revenue requirement. However, there have been no new requirements enacted as a result of the Pipeline Safety Act and therefore any additional costs are speculative. If any new requirements are enacted and compliance costs can be reasonably forecasted, the Company can include those estimates in future rate filings.

Generation Retirement Capital and O&M Reconciliation

Q. Do you agree with the Company’s proposal for the recovery of capital investments and O&M expense that may be incurred to address the retirement or mothballing of New York City generation or the shutdown of Indian Point Units 2 and 3?

A. No. The cost recovery of Company investments and activities related to the Indian Point replacement is being addressed in a separate proceeding, Case 12-E-0503. In a one year rate plan, costs incurred due to other generation retirements that are not included in the Company’s forecast should be handled through the Company’s budget management process as we explained earlier when discussing net plant targets. The Company may, as always, file a petition with the Commission requesting relief if these costs are material.

Capital Spending Reporting

Q. Does the Panel agree with the Company’s proposal to continue annual reporting and meeting requirements related to electric, gas and steam capital expenditures with certain modifications?

A. Not entirely. As explained by the Staff Gas Infrastructure Investment Panel, the Company should continue to file the mid-year variance report for gas. All of these reports are very helpful for Staff, in performing its monitoring function on a continuing basis. These reports become more important in a multi-year rate plan.

Q. The Company proposes to eliminate the need for capital expenditure targets. Do you agree?

A. For a one year rate case, we agree. If these proceedings result in multi-year agreements, however, there may be a need for capital expenditure targets depending upon the overall terms and conditions of the agreements.

Storm Hardening

Q. Did the Company reflect capital expenditures for projects related to storm hardening in its filing?

A. Yes. The Company's Electric Infrastructure and Operations Panel, Electric Production Panel, Shared Services Panel, Gas Infrastructure and Operations Panel and Steam Infrastructure and Operations Panel each address the Company's storm hardening investments planned for 2013 through 2016 to better protect critical parts of its system following the recent impact of Superstorm Sandy.

Q. How does the Company propose to recover costs related to storm hardening?

A. The Company explained that it included capital expenditures for proposed projects in these filings to be recovered through base rates. Additionally, Con Edison proposes that a revenue surcharge mechanism be established to fund any storm hardening expenditures or initiatives it pursues above and beyond those allowed in base rates.

Q. Why is the Company proposing this surcharge mechanism in addition to the rate allowance?

A. The Company states that a surcharge mechanism will facilitate its investment in storm hardening projects that may be developed via Company, governmental and/or other stakeholder processes outside the traditional rate case process. It asserts that the mechanism will allow Con Edison the flexibility to respond to future recommendations and actions related to storm hardening in a timely manner.

Q. Does the panel agree with the surcharge proposal?

A. No. A surcharge mechanism as proposed by the Company is an extraordinary measure that would provide the Company immediate recovery, without rate case review, of all carrying charges on projects above and beyond the capital expenditure carrying charges embedded in rates. Furthermore, such coverage would only be effective for a portion of the rate year; or, if the Company is in a multi-year rate plan, the period of time remaining under that plan. The rate case process provides for a comprehensive analysis of those plans and forecasted expenditures once the complete details and plans are available. The rate case process also allows for consideration of the impacts of storm hardening on other capital expenditures. As discussed by other Staff witnesses, certain other projects may be deferred or rendered unnecessary due to storm hardening initiatives.

Q. What does the Panel recommend for recovery of storm hardening capital expenditure project and program costs?

A. The Staff Electric Infrastructure Investment Panel, Staff Steam Infrastructure Panel, Staff Gas Infrastructure Investment Panel, Staff Electric Production Panel and Staff Shared Services Panel have each examined the storm hardening proposals presented by the Company for each business unit in the rate year. Those projects scheduled for the rate year that each Panel determined to be reasonable and necessary, have been incorporated into Staff's net plant additions for the rate year. For other rate year projects, they identified any outstanding issues and either: 1) recommended specific adjustments and reflect those adjusted costs in the net plant additions; or, 2) incorporated the full requested amount of the projects in the net plant additions, but recommended further review. The same process was used for projects that go into service beyond the rate year. However, Staff is not presenting a net plant forecast beyond the rate year in this case.

Q. Why did the Staff Panels keep certain plant additions in the net plant forecasts at the full requested value for the rate year even though issues have been identified with such projects?

A. The Panels generally took this approach with proposed storm hardening project proposals that lacked sufficient detail and/or clear design standards. For example, the Staff Electric Infrastructure Investment Panel notes that the

Company’s current design standard for storm surge protection is based on the highest of: 1) the observed Sandy level at each station; 2) the 2010 Category 1 Hurricane levels as predicted by the National Weather Service’s Sea, Lake, and Overland Surge from Hurricanes (SLOSH) maps; and, 3) the 2007 Federal Emergency Management Agency (FEMA) Flood Maps plus two feet. However, there are newer FEMA advisory maps that should be considered, and the impact of climate change could also increase the height of future flood levels beyond the level of those projections. We also note that many of the storm hardening initiatives are completely new to the Company and require more time to develop a proof of concept followed by detailed plans and designs. In addition, many details behind the proposed storm hardening projects were either provided in response to Staff IRs or included in the Company's informal update, provided on March 25, 2013, which limited the amount of time Staff had to review.

Q. How should the carrying costs associated with these storm hardening projects be treated?

A. The Commission should require the Company to separately track all storm hardening investments and be subject to downward reconciliations on all carrying charges related to this category of capital expenditures, separate and distinct from the downward reconciliations that apply to the Company's other capital expenditure categories.

Q. Why should Con Edison separately account for storm hardening investments?

A. Storm hardening investments will continue for several years, separate accounting will allow Staff to monitor the Company's progress on a major new initiative. In addition, if the Company receives city, state or federal aid for storm hardening purposes, those amounts can be used to directly offset the storm hardening investments provided for in base rates. Finally, if the City provides property tax relief for certain storm hardening investments, those benefits can be properly accounted for as well.

Q. How does the Panel propose that the Company further develop its storm hardening plans and design standards?

A. Normally, the Commission would direct in its rate order that such collaborative be commenced. However, in light significant issues involved, the Company should consider convening a collaborative of interested parties. Such collaborative would include, at a minimum, representatives from the Department, the City, the County of Westchester, Metropolitan Transportation Authority, associations representing critical care facilities and those organizations involved in studying climate change adaptation, to consider the storm hardening efforts being considered and planned by all stakeholders in the Company's service territory. The collaborative should consider among other things, what the design standard should be for various aspects of the Company's system and if and how climate change impacts should be incorporated into that standard as well as considering the best ways to build flexibility into its designs.

Q. When should the collaborative process begin?

A. Ideally, the Company should convene the collaborative in July 2013 to allow for the incorporation of input from the collaborative into its 2014 budget. The collaborative would continue into the rate year so that long-term initiatives for 2015 and beyond can be developed and incorporate input from other processes.

Q.   What processes are you referring to?

A.   For example, the Governor's NYS 2100 Commission, NYS Respond Commission, NYS Ready Commission, and the Moreland Commission on Utility Storm Preparations and Response. These are major efforts that will likely have a significant impact on the Company’s storm hardening plans. In addition, the collaborative process could also consider information developed by experts hired by the Department or other stakeholders. Studies could provide information such as utility system storm hardening best practices from other parts of the country and the world. Consultants could assist in developing criteria that could be used to determine what storm hardening projects should be undertaken and what the associated costs and benefits are expected to be.

Q.   How would the storm hardening collaboratives’ progress inform the Commission's review of storm hardening plans?

A. The Company should be required to provide a report by December 1, 2013 containing a plan and additional details related to the storm hardening projects to be carried out in the upcoming rate year and beyond. This report should address the concerns raised by the various Staff Panels as well as incorporate input from the collaborative. The report will guide Staff in its review of the Company's actual storm hardening expenditures and the downward reconciliation mechanisms, if adopted by the Commission. If a multi-year rate plan is adopted in these proceedings, periodic reports should continue, detailing the continued development of the longer-term storm hardening initiatives.

Q. What if the Company does not institute the collaborative process that you recommend?

A. The Commission should deny any recovery of carrying charges related to those projects identified by the various Staff Infrastructure Panels and require further study on its own motion.

Gas Depreciation Reserve

Q. Please summarize the recommendation of the Staff Depreciation Panel regarding adjusting the theoretical reserves proposed by the Company for gas service?

A. The Staff Depreciation Panel is recommending adjustments that will increase the Company's proposed book to theoretical reserve surplus from $92 million to $232 million, or an additional $140 million.

Q. In its determination of gas revenue requirement for the rate year, is Staff recommending an amortization of the reserve surplus or any portion of it?

A. No. In light of Staff's recommended revenue decrease of $126.117 million for gas service, we are not proposing an amortization of the reserve surplus in the rate year. However, should the Commission not accept Staff's recommended revenue decrease as filed; we reserve our rights to propose an amortization of the reserve surplus in the rate year.

Q. What are the benefits of not amortizing the reserve surplus in the rate year and having it stay in gas rate base?

A. One benefit is that as long as it remains in gas rate base, customers would, in effect earn a return, at the pre-tax rate of return, on the reserve surplus remaining in the gas depreciation reserve, or about $20.9 million in the rate year based on Staff's forecasted cost of capital. An additional benefit would be that the unused reserve surplus would be available to mitigate future gas rate increases. Although it is difficult to forecast the Company's future revenue needs for its gas service, having the reserve surplus available may be useful in maintaining gas delivery rates at their current levels for some period of time.

Q. Are there additional alternatives for the Commission to consider with respect to returning the reserve surplus to customers beginning in the rate year?

A. Yes. A third option would be to adopt a rate credit to spread the reserve surplus over a certain time period. That is, the reserve surplus could be built into current gas depreciation rates and, thus, lower gas depreciation expense over some period of time. In the future, when the amortization is complete, depreciation rates would be adjusted accordingly. A fourth option would be to use the reserve surplus to offset material long-term gas regulatory assets on the Company’s books or as they arise in the future. Currently, the only regulatory asset on the Company’s books that meets that definition is deferred Site Investigation and Remediation (SIR) program costs. Therefore, the Commission could decide to write-down all, or a portion, of the $28.8 million Con Edison projects to have on its books related to SIR costs for gas service at the end of rate year.

Q. Are there tax consequences to consider when using the surplus reserve for ratemaking purposes?

A. Yes. It is our understanding, based on other utilities under the Commission’s jurisdiction refunding reserve surpluses, that the tax consequences that can result from the use of the reserve surplus could further benefit customers.

We cannot estimate the tax benefits because they are dependent on numerous book-tax deprecation variables and calculations which only the Company possesses. Accordingly, we recommend, that, should any gas surplus reserve be used in the gas proceeding, that the Company be required to reconcile and defer any tax benefits associated with the use of the surplus. Further, in its rebuttal filing, the Company should discuss the tax consequences of using the surplus reserve for ratemaking purposes.

Rate Adjustment Clause

Q. Did the Company propose to modify the Rate Adjustment Clause (RAC) currently in effect for the electric, gas and steam business?

A. Yes. Con Edison proposes to cease collecting any revenues subject to refund through the RAC. The Company argues that the amounts collected through December 31, 2013, subject to potential refund, will grossly exceed any reasonable expectation of refund liability. The Company also states that continuation of the RAC is harmful to ratepayers since conversations with members of the financial community indicate that they are concerned with the indeterminate nature of the contractor proceeding, and with the material and growing amount of revenues subject to refund. The Company claims that this could result in an increase in the Company's financing costs thereby adversely impacting customers.

A. Does the Panel agree with the Company’s position?

Q. No. The RAC recovery should continue for the electric, gas and steam businesses until the Commission’s investigation in Case 09-M-0114 is complete and has acted. There could be specific investments that are found to be imprudent and we expect the Commission will want to recover the carrying costs associated with such investments that have been paid by customers up until the time that it issues a final order in that case. While Con Edison claims that the RAC could have an impact on financing costs, none of the Company’s financing witnesses raise this as an issue.

SIR Amortization

Q. What is the current amortization period used by Con Edison to recover SIR costs?

A. Ten years. In Case 07-E-0523, the Commission determined that a ten-year amortization was warranted for Con Edison given the proximity of its service area to KeySpan’s, which at time was recovering SIR costs over ten years, and the rising rate levels that the Company was experiencing.

Q. Is the Company proposing to modify the amortization period associated with the recovery of SIR costs?

A. Yes. Con Edison is proposing that the current amortization period for SIR Program costs be reduced from ten to five years. The Company believes that this change can be accomplished with minimal bill impacts and will reduce the long-term cost to customers by reducing carrying changes on the unamortized balances reflected in rate base for each service. The Company also points out that its ten-year recovery period for SIR costs is the longest recovery period for any of the utilities under the Commission jurisdiction. In Cases 06-1185 and 06-G-1186, the Commission authorized a five-year recovery for the KeySpan companies.

Q. Does the Panel agree that the amortization period associated with the recovery of SIR costs be shorted from ten to five years in these proceeding?

A. Yes. The conditions that existed in 2008 that prompted the Commission to adopt a ten-year amortization period for Con Edison's SIR costs no longer exist. In 2008, the Commission was considering an annual electric revenue increase of $425 million; whereas Staff is proposing revenue requirement decreases for each service in these proceedings. Accordingly, in our view, it is reasonable to accelerate the recovery of deferred SIR costs now in an effort to reduce the long-term cost of the Company's SIR program to its customers.

Deferred Accounting Related to Oil-to-Gas Conversions

Q. Do you agree with the Company's Gas Infrastructure and Operations Panel proposal to terminate the mechanism related to deferral of all firm delivery revenues, O&M expenses and carrying costs associated with conversions from No. 4 and/or No. 6 fuel oil to gas service in connection with changes in law by New York City or other governmental entities?

A. Yes. Staff's gas revenue requirement reflects the actual number of oil-to-gas conversion customers added to date and the forecast of the additional conversions to be added during the rate year. Our forecast of the costs of the necessary infrastructure to handle the new customers is included as well. Any costs and revenues that continue to be booked by the Company during the remaining term of the current rate plan and the three month stub period should continue to be deferred for future Commission determination. The existing mechanism is no longer necessary.

Steam Weather Normalization Clause

Q. Did the Company propose a weather normalization clause (WNC) for Steam revenues?

A. Yes. The details of the proposed mechanism are described by the Company's Steam Sales Forecasting Panel and Company witness Muccilo also recommends a WNC in his testimony.

Q. What reasons does the Company provide for requesting that the Commission adopt a WNC for steam?

A. The Company provides several reasons. First, the Company claims that forecasting weather is beyond the ability of the Company, Staff or any other party and therefore steam customers and the Company are subject to increases or decreases in costs and revenues, respectively, for circumstances outside both the Company’s and customers’ control.

Q. What other reasons does the Company provide for requesting a WNC?

A. The Company argues that a WNC exists for gas and electric so, therefore, it should exist for steam.

Q. Do you agree with the Company’s reasoning?

A. We acknowledge that the Commission has authorized the use of a WNC for gas customers, but it has not done so for electric service. The Commission has adopted a revenue decoupling mechanism (RDM) for electric to explicitly provide for recovery of lost revenue due to energy efficiency programs and not due to weather. While the RDM provides for lost revenues due to weather variations, such outcome is an unintended side effect of the RDM, along with other unintended side effects such as providing for variations in revenues due to a bad economy, and any other factor that impacts sales. Therefore, gas is the only other utility business that the Commission explicitly has allowed a WNC. We are not compelled by the Company's position that just because one business has a WNC that steam, should have it as well. There are many differences in the rate making and rate designs that are unique to the specific services and address the unique challenges faced by each.

Q. Does the Panel agree that the Commission should adopt a WNC for Steam?

A. No. First, the Company made no attempt to demonstrate a financial need for a WNC; it only provides examples of how different the actual weather has been from normal weather in the last two winter seasons 2010-2011 and 2011-2012. In addition, it provides an estimate of what the WNC surcharge/credit would have been if the proposed mechanism was in place during those periods. It is interesting to note that if the Company's proposal was in place, it would have been able to surcharge customers an additional $38 million for the 2011-2012 winter period, while crediting customers an estimated $8 million for the 2010-2011 winter period, benefiting the Company much more than customers over the two year period.

Q. Please continue.

A. Second, Staff witness Barney, is proposing changes to the steam sales forecast that will make it more accurate. Specifically, he recommends that the forecast should be based on ten year weather instead of the thirty year weather used by the Company. As Staff witness Barney describes, ten year weather results in a more accurate steam sales forecast by using a definition of normal weather that takes into account the recent warming trend that has been observed in the City. In addition, Staff witness Dr. Liu provides a full analysis as to why use of ten year weather patterns results in a more accurate sales forecast.

Q. Have other rate design changes occurred that in part increase the certainty that the Company will recover its costs?

A. Yes. The Commission recently adopted a demand and energy rate structure has been implemented in the last few years for the largest steam customers, which has increased the Company's revenue certainty. Currently, only 25% of the winter period revenue is collected through demand rates. To further increase revenue certainty, the Commission could require this percentage to be increased. The Company could also be required to examine expanding the applicability of demand rates to customers with less than the current threshold of 14,000 Mlb annual usage. There is a cost basis for shifting more cost recovery through demand rates. In fact, the Company's embedded cost of service study allocates a majority of steam costs on a demand basis.

Reserve Accounting for Storm Costs – Gas & Steam

Q. Please summarize the Company's proposal to establish storm reserve accounting for its gas and steam services.

A. The Company notes that although past major storms did not have a material impact on steam or gas service that changed with Hurricane

Sandy, during which the Company's steam and gas services experienced significant damage and/or incurred significant costs from flooding. The Company believes it would be unreasonable to ignore the possibility of future major storms also having material adverse impacts on the gas and steam systems. It maintains that the frequency, nature and intensity of storms, and the extent and nature of the Company's response, cannot be reasonably predicted. According to Con Edison, gas and steam rates should reflect costs reasonably anticipated to be incurred by the Company to respond to major storms. Con Edison proposes a major gas and steam storm reserve as a way to recover a reasonable amount of costs. Such a reserve would be recovered in gas and steam rates based upon an average of storm response costs during an historical period, subject to reconciliation for actual costs incurred, comparable to the storm reserve accounting in place for its electric service.

Q. How much is the Company requesting to fund its gas and steam storm reserves?

A. The Company states that although it incurred major storm costs as a result of Sandy, it recognized that is not a reasonable historical period on which to establish a representative amount of costs. The Company proposes to establish a major storm reserve for gas and steam with an initial reserve amount of $1 for each service.

Q. Does the Panel agree with the Company proposal to establish storm reserve accounting for its gas and steam services?

A. No. While no definition of major storms exists for either gas or steam service, as detailed in the Company’s response to DPS-181, Con Edison has never lost service to 10% of its gas or steam customers, the threshold for the electric service major storm definition, other than during Hurricane Sandy. In addition, the Company has not segregated or separately tracked storm costs to either its gas or steam services for over ten years. Without a historical financial basis to support the request, we recommend against the Company’s proposal.

Q. How should Con Edison recover gas or steam storm costs, if not through reserve accounting?

A. If a storm of Sandy's magnitude were to impact the Company's gas and/or steam system, the Company has the right to file a petition with the Commission to defer incremental gas and/or steam storm related costs. In fact, on May 3, 2013, the Company filed just such a petition, seeking authorization to defer incremental costs associated with the restoration of steam service following Superstorm Sandy. The right to file a deferral petition protects the Company from any undue material financial effects of such catastrophic weather events.

Reserve Accounting for Storm Costs – Electric

Q. Please describe the mechanism which currently allows the Company to defer costs in excess of the level provided for in base rates.

A. The current mechanism defined in the 2010 Electric Rate Plan adopted by the Commission in Case 09-E-0428, provides that over the term of the rate plan, to the extent that the Company incurs cumulative incremental major storm damage expenses in excess of $16.8 million over the three year term of the plan, the Company will defer on its books of account expenses in excess of that amount for future recovery from customers. If the Company incurs cumulative major storm damage expenses less than $16.8 million, any variation will be deferred for the benefit of customers. In addition, all major storm expenses are subject to Staff review.

Q. Does the panel recommend keeping the electric major storm reserve mechanism?

A. Yes but with modifications. The current mechanism lacks the necessary conditions to discipline Con Edison to act efficiently and effectively when incurring major storm expenses.

Q. Does the Company propose to increase the amount of major storm expenses reflected in base rates?

A. Yes. The Company proposes to increase the current annual level of $5.6 million to a rate year annual level of $21.25 million, which it claims is the four-year average of major storm costs incurred between July 2008 and June 2012. The Company notes that the proposed increase does not reflect major storm costs associated with Superstorm Sandy and it reserves its rights to update this amount during the course of this proceeding.

Q. Describe your proposed changes to the existing major storm reserve deferral mechanism.

A. Based on our review of storm reserve mechanisms at other New York State utilities, we recommend that the mechanism in place for National Grid electric service be used as a template.

Q. How much should be included in base rates for incremental major storm expenses?

A. The Company's base rates should include $21.427 million, as proposed by the Company, to provide funding for incremental major storm expenses. Any incremental major storm expense in excess of $21.427 shall be deferred for future recovery. If, in any calendar year, the Company does not incur at least $21.427 million of incremental major storm expenses, the Company should be required to defer the shortfall for the benefit of customers.

Q. How should a major storm be defined?

A. For deferral purposes, a major storm should be defined, in accordance with 16 NYCRR Part 97, as a period of adverse weather during which service interruptions affect as least 10% of the Company's electric customers within an operating area and/or results in electric customers being without electric service for a duration of at least twenty-four hours.

Q. What costs should be included or excluded?

A. Incremental major storm expenses should include overtime and related payroll taxes paid to employees to restore service following the major storm, rest time wages incurred as the result of a major storm if specified in Con Edison's union contracts, outside vendor costs, lodging and meal charges, and material and supply charges that Con Edison would not have incurred, except for the major storm. Any capitalized costs should be excluded from the incremental major storm expenses, and proceeds or reimbursements from insurance, the Federal Emergency Management Agency, New York State or any other reimbursement or proceeds received to cover such costs should be deducted from the incremental major storm expenses. Con Edison should not be authorized to defer storm-related claims costs, stores handling costs originating from Con Edison, transportation costs originating from Con Edison, pension and OPEB costs, equipment rental costs (unless the Company demonstrates that such costs are qualifying incremental storm expenses) or costs for cell phone usage.

Q. What record keeping should be required?

A. Con Edison should open a work order for each major storm, and the incremental major storm expenses charged as a result of any major storm should be subject to audit by the DPS Staff for reasonableness and appropriateness and subject to Commission review and approval. Con Edison should be able to provide data showing that a period of adverse weather qualifies as a major storm by affected operating area as part of its backup support for the deferral of incremental major storm expenses.

Q. Should the Company be subject to a per storm deductible?

A. Yes. An amount of incremental major storm expense should not be charged to the deferral to account for the fact that some portion of the incremental storm expense will reduce Con Edison's future normal operating and maintenance costs. For purposes of this proposal, we have proposed 5% as a placeholder, recognizing that we do not have a study that would identify a more accurate percentage. The Company should be required to perform an analysis of costs following a major storm event to determine a reasonable deductible percentage. The Company could use the filing related to Superstorm Sandy costs as an opportunity to present such analysis.

Q. Should there be a limited time period during which the Company can claim incremental storm expenses against the deferral mechanism?

A. Yes. For deferral purposes, incremental major storm expense should include only those expenses incurred in the 30 days following restoration of the ability to serve all customers. Con Edison should not be authorized to defer costs incurred after this period; however, the Company should have the right to petition the Commission for authorization to defer incremental major storm expenses incurred more than 30 days following restoration of the ability to serve all customers that are associated with extraordinary major storms.

Deferred Major Storm Cost Review Process

Q. Provide a summary of the major storm costs that have been deferred under the current rate plan.

A. As described by Company witness Muccillo, during calendar years 2010 and 2011 the Company incurred $52 million and $42 million, respectively, in major storm costs. The cost accrued for Superstorm Sandy as of the end of November 2012 amounted to $240 million.

Q. Does the Panel recommend reviewing the major storm expenses that have been deferred to date?

A. Yes. Given the significant level of deferred expenses, the review of these expenses cannot be completed through the rate case process. This problem is further exacerbated by the fact that the Company's filing included few details of these deferred expenses. Therefore, we cannot support the Company's proposal to begin collecting these amounts from ratepayers beginning January 1, 2014.

Q. Would you still recommend some level of recovery in base rates?

A. Yes. Staff's electric revenue requirement includes recovery of $26.1 million for non-Superstorm Sandy deferred storm costs, which represents an amortization of one-third of the $78.3 million currently deferred; and $80.2 million for Superstorm Sandy related costs, which represents an amortization of one-third of the $242 million currently deferred as indicated by the Company’s informal update. The Commission should make these amounts subject to refund based on its review and approval of the underlying costs.

Q. Describe your proposed major storm expense review process.

A. The review process should begin with the Company making a detailed filing, either with its formal update in this case or soon thereafter, demonstrating the incremental nature of the major storm expense and a demonstration of how the expense is related to a major storm event. In addition, the filing should include an accounting of any insurance proceeds that have been obtained or expected to be obtained to offset the major storm expenses. The filing would be followed by a Staff review process and with recommendations to the Commission ultimately arriving at an order specifying the allowed expense level to be recovered.

Inclusion of Excelsior Jobs and Recharge NY in the RDM

Q. Has the Company proposed any modifications to the Recharge New York (RNY) and the Excelsior Jobs (EJ) programs?

A. Yes. The Company's Gas and Electric Forecasting Panel suggests that because the Company has no control over how large these programs become, or who gets RNY or EJ allocations, the revenues associated with these programs should be included in the RDMs.

Q. Does the Company have direct control over how large these programs become or who participates in them?

A. The Company does not have direct control. However, the Company does have the ability to promote these programs to potential customers who may be looking to relocate to New York State or expand their current business, thus affecting the size of the programs and who participates. If the revenues associated with these programs are included in the Company’s RDMs, the Company would have no financial incentive to promote these programs.

Q. Do EJ and RNY programs at other utilities exclude revenues associated with load served under these programs from RDM calculations?

A. Yes. The Commission created the programs' provisions to be consistent. All gas and electric companies that participate in EJ and all electric companies that participate in RNY exclude revenues associated with the programs from their respective RDMs. There is no reason to accord Consolidated Edison's programs different treatment.

Q. Has the Commission recently ruled on whether RNY revenues should be included in RDMs?

A. Yes. Consumer Power Advocates (CPA), an association representing large non-profit hospitals and universities in the New York City area, recently filed a petition that requested that Consolidated Edison include RNY revenues in its RDM targets.

Q. Did the Commission grant CPA's request?

A. No. The Company noted in its own comments regarding CPA's petition that it is Commission policy to exclude revenues from economic development programs from RDMs.

Q. Has the Commission previously considered proposals to include revenues associated with these programs in RDMs?

A. Yes. Prior to the Commission implementing the current program provisions, Central Hudson Gas and Electric Corporation recommended including these program revenues in the RDMs; however, the Commission decided to exclude these program revenues from RDMs.

Q. Would approving the Company's proposal in these Cases have any adverse consequences for customers?

A. Yes. There are already many customers who have been awarded RNY allocations, and by the time these Cases reach their conclusion, customers will already be served under the EJ program. Adopting the Company's proposal now would not only be confusing to program participants, but may subject customers to unwanted/unanticipated bill volatility due to the fluctuating nature of RDMs.

Proposed Changed to the RDM for Electric and Gas

Q. Does the Panel recommend any changes to the RDM that is currently in place for the Electric and Gas business?

A. The Commission recently issued a notice for comments in Case 13-M-0061, which deals with customer outage credit policies and other consumer protection policies related to prolonged electric or natural gas service outages. That notice included a proposal to deal with lost delivery revenues resulting from prolonged outages that would involve RDMs to be designed so that the volumetric portion of delivery bills that was not collected from customers who were out of service more than three days, as well as the lost revenues from customer charge credits, are excluded from the RDM targets and therefore not allowed to be recovered. We propose that if the Commission does not issue a generic policy in that proceeding before the start of the rate year in this case, that the Commission adopt its preferred lost revenue treatment for Con Edison in this proceeding. Given the fact that Con Edison ratepayers were among the hardest hit by

Superstorm Sandy, we think it is important not to delay implementation for Con Edison customers.

Application of Current Electric, Gas and Steam Rate Plan Provisions

Q. What is the term of the Company's current electric, gas and steam rate plans?

A. The electric plan commenced April 1, 2010 and ended March 31, 2013. Both the gas and steam plans commenced October 1, 2010 and will end September 30, 2013.

Q. Do the rate plans address how Con Edison will account for the provisions of each plan in the event that the Company did not file for new rates that took effect immediately after the end of each rate plan?

A. Yes. All provisions of the electric rate plan, unless specifically excluded, continue after March 31, 2013 and the provisions of the gas and steam rate plans, unless specifically excluded, continue after September 30, 2013, unless and until base delivery rates are changed by Commission order. For any provisions subject to reconciliation, the target for the third year of the rate plan is applicable to any subsequent period.

Q. In its electric, gas and steam filings, did the Company discuss the continuation of the provisions of each respective rate plan for the period between the end of the rate plan and the beginning of the rate year in this case, which for electric is the none month period April 1, 2013 through December 31, 2013 and for gas and steam is the three month period October 1, 2013 through December 31, 2013?

A. Yes. The Company discussed how they would continue and implement required deferral and reserve accounting during the nine month period for electric and three month period for gas and steam. The Company also discussed how it would treat the amortization of regulatory deferrals during the period. Moreover, the Company discussed how it will implement the electric and gas RDMs and treatment of the electric and gas low income discounts and reconnection fee waivers during the respective periods.

A. Does the Panel oppose any of the Company's proposals for continuing the provisions of the electric, gas and steam rate plans during the respective periods?

A. No, except for the Company's proposed treatment of any potential sharing of excess earnings. The Company's other proposals are rational and reasonable ways of continuing the rate plan provisions during the period.

Q. What is the Company's proposal for sharing excess earnings during the period?

A. In its response to DPS-0089, Con Edison explains how it would calculate excess earnings in the nine month period under its electric rate plan and the three month period under its gas and steam rate plans. The Company indicates that it would adjust rate base to reflect the seasonal impact of sales on operating income by applying the percentage of annual revenues during the nine or three month periods to the adjusted average rate base for that period. Actual operating income for the nine or three month period would be divided by the adjusted rate base to calculate overall rate of return earned.

Q. Please explain why the Panel opposes the Company's proposal.

A. We don't agree that rate base should be adjusted to reflect the seasonal impacts of sales on operating income. Although the method proposed by Company would balance out over a twelve month period, it will not do so over a shorter period of time, and the mismatch may be unfavorable to customers. Further, there's nothing in the existing electric, gas or steam rate plans that would suggest a method to calculate earnings in the manner proposed by the Company.

Q. Do you have an alternative proposal for treatment of revenues under the RDM for these three and nine month periods?

A. Yes, we propose using the actual electric operating income for the nine month period divided by actual rate base for the nine month period to calculate the overall electric rate of return earned. Similarly, we propose using the actual gas and steam operating income for the three month period divided by actual rate base for the three month period to calculate the overall gas and steam rate of returns earned.

Q. Does this conclude your testimony at this time?

A. Yes.