

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Syracuse on September 22, 2004

COMMISSIONERS PRESENT:

William M. Flynn, Chairman
Thomas J. Dunleavy
Leonard A. Weiss
Neal N. Galvin

CASE 03-G-1671 - Proceeding on Motion of the Commission as to
the Rates, Charges, Rules and Regulations of
Consolidated Edison Company of New York, Inc.
for Gas Service.

CASE 03-S-1672 - Proceeding on Motion of the Commission as to
the Rates, Charges, Rules and Regulations of
Consolidated Edison Company of New York, Inc.
for Steam Service.

ORDER ADOPTING THE TERMS OF A JOINT PROPOSAL

(Issued and Effective September 27, 2004)

BY THE COMMISSION:

INTRODUCTION

On November 21, 2003, Consolidated Edison Company of
New York, Inc. filed to increase its gas and steam rates. The
company proposed to increase gas revenues by \$107.5 million
(about 9.8%). It also proposed to increase steam revenues by
\$128.9 million and to offset a portion of the increase with
savings expected from the East River Repowering Project (ERRP),
resulting in a net increase of \$65 million (about 14.6%). The

Commission suspended the two filings and established these cases to examine the company's rates.¹

In accordance with the schedule set for these proceedings, Department of Public Service Staff and other parties audited and investigated the rate filings. In March 2004, Staff and various parties filed testimony critical of the company's rate proposals. In April 2004, Consolidated Edison filed its rebuttal and updates for the rate filings. Evidentiary hearings were to begin in April; however, they were put off when the parties announced plans for a settlement. Notice of their settlement discussions was provided in accordance with the requirements of 16 NYCRR §3.9. On May 28, 2004, the parties' efforts produced a Joint Proposal that was executed by Consolidated Edison, Staff and a large group of case participants with a wide range of interests.²

On June 21 and 22, 2004, evidentiary hearings were held to consider the merits of the Joint Proposal. Notice of the Joint Proposal was also provided to the public and interested persons were invited to submit comments by August 6, 2004. Public statement hearings were held on July 20, 2004 in Manhattan and the Bronx, and in Westchester on July 22, 2004. Commissioner Thomas J. Dunleavy presided at the hearings held in Manhattan and Westchester.

¹ Consolidated Edison's rate filings included the company's multi-year rate proposals. Its three-year gas rate plan proposed that gas rates be increased by \$30.6 million in 2005 and by \$36 million in 2006. The company's steam rate plan proposed that steam rates be increased by \$10.9 million in 2005 and by \$18.8 million in 2006.

² In addition to the company and staff, the Joint Proposal has been endorsed by the City of New York, New York Energy Buyers Forum, Owners' Committee on Electric Rates, Inc., Small Customer Marketer Coalition, Pace Law School Energy Project, Natural Resources Defense Council, Association for Energy Affordability, Inc., Public Utility Law Project of New York, Inc., Consumer Power Advocates, Amerada Hess Corporation, North American Energy, Inc., National Energy Marketers Association, and Brooklyn Navy Yard Cogeneration Project.

In addition to the comments obtained at the hearings, the Commission received several letters, electronic mail and voice messages from customers who are opposed to the proposed rate increases.

THE PROPOSED TERMS AND PROVISIONS³

From their review of the existing rates, and their forecasts of future operations, the proponents of the Joint Proposal have found that gas rate increases are needed for the next three years and two steam rate increases should be implemented in as many years. The Joint Proposal contains provisions addressing the safe and adequate operation of the gas and steam departments. It also contains terms that promote the development of a competitive retail market and efficient energy use in the service area. With respect to the steam system, the Joint Proposal seeks to establish just and reasonable rates, and sufficient sales growth to sustain viable service.

Gas Rates

The Joint Proposal presents two alternatives for implementing higher gas rates. A \$46.8 million increase could be implemented in October 2004 and base rates could remain at the established level for the next three years. Alternatively, annual rate increases could be implemented to provide the company \$28.7 million in October 2004, \$18.4 million in October 2005, and \$18.3 million in October 2006. Either approach would provide Consolidated Edison equivalent amounts for the three-year period.⁴

In either case, gas delivery rates are premised on the company receiving the first \$35 million of non-firm gas sales revenues that, in previous periods, were credited to customers through the Gas Supply Charge. Thereafter, customers would

³ This summary is adapted from one provided by the parties on June 4, 2004.

⁴ The merits of the two approaches are discussed below at p. 24 where we state our reasons for adopting the single increase in October 2004.

receive 80% of any additional, non-firm sales revenue between \$35 and \$50 million; 75% of any additional revenue from \$50 to \$70 million; and, 90% of the non-firm revenues above \$70 million, if any. Depending upon which rate plan is adopted, the customers' portion of the additional non-firm revenues would either be deferred for future use or be flowed back to customers through the Monthly Rate Adjustment and the Gas Cost Factor portions of their bills.

The rates proposed for low-income residential customers are lower than those for other customers. Over the three years, \$4.8 million will be provided to reduce the volumetric usage rates for residential customers who receive governmental assistance.

Steam Rates

The Joint Proposal recommends that steam rates be increased by \$49.6 million in October 2004 and by \$27.4 million in October 2005. However, customers will obtain savings in January 2005 related to the ERRP. These savings will effectively reduce the overall rate increase to about \$20.1 million each year. The fuel savings (net of the ERRP carrying charges) will be flowed to customers using the Fuel Adjustment Clause.⁵

Steam rates would also be moderated by the proposed treatment of the 74th Street and 59th Street Steam Station operating costs. These costs will ultimately be transferred from the electric to the steam department. However, the \$27 million of annual costs will not be transferred until the steam department receives its share of the proceeds that Consolidated Edison obtains from the sale of utility property located on First Avenue in Manhattan.

During the next two years, Consolidated Edison will prepare customers for the potential implementation of steam

⁵ The recovery of ERRP capital costs includes capitalized property taxes and an allowance for funds used during construction (AFUDC). Capital costs have been capped at \$685 million for purposes of these proceedings.

service demand charges. The company will install demand meters for its largest customers and provide them "dummy bills" showing what the demand charges would be had they been in effect. Consolidated Edison will also implement a new tariff (Rider E) to allow individual customer fuel charges to substitute for the company's average fuel charges.

Earnings Levels and Cost Reconciliations

An allowed equity return of 10.3% was used to set the amount of the gas and steam revenue requirements. For the terms of the gas and steam rate plans, Consolidated Edison would share equally with customers any earnings it achieves over 11.75%.

Certain costs included in the gas and steam rates are subject to reconciliation and deferral accounting. They include property taxes, plant additions, pensions and other post-employment benefits (OPEBs), environmental remediation work, a pipeline integrity program, and gas and steam system interference work.

The Joint Proposal restricts and limits the amount of certain expense deferrals. Property taxes and non-company labor interference expenses can only be deferred to the extent they exceed 2.5% of the cost estimate included in rates. If Consolidated Edison achieves earnings between 11.75% and 15%, it can only defer half of some of the otherwise eligible amounts; if it earns above 15%, none of the eligible amounts can be deferred. These limits do not apply to deferrals associated with the rate adjustment clauses (the Gas Cost Factor (GCF), the Monthly Rate Adjustment (MRA) and the Fuel Adjustment Clause (FAC)), deferred taxes, lost and unaccounted for gas and steam line losses, the gas efficiency and migration programs, World Trade Center (WTC) expenditures and losses from property sales.

Other Rate Matters

Consolidated Edison will present new depreciation studies in mid-2005 that evaluate gas and steam system improvements, replacements and equipment obsolescence. The parties will consider whether the new studies should be used in

the company's next rate filings, but they will not be used before then.

Consolidated Edison will stop surcharging customer bills for state income tax amounts. Instead, it will begin to collect the taxes in base rates. The Joint Proposal permits the company to retain up to 14% of any tax refunds it obtains.

Retail Gas Service

The Joint Proposal includes a Purchase of Receivables Program for the benefit of customers and energy service companies (ESCOs). Under the terms of this program, the company will purchase the ESCOs accounts receivable at a discount without recourse. ESCOs will notify their customers that this program authorizes Consolidated Edison to disconnect commodity service received from an ESCO and the delivery service provided by the utility (in accordance with applicable regulations) for non-payment of a consolidated bill when the company purchases the accounts receivable.

Consolidated Edison will also begin a Retail Marketing Program for ESCOs that participate in its consolidated billing service. Customers who take service from an ESCO will receive a seven percent discount (from Consolidated Edison's current monthly Gas Supply Charge) for two billing cycles on the ESCO-provided commodities. Customers may return to Consolidated Edison, without penalty, if they so desire. ESCOs may not misrepresent the terms of the Retail Marketing Program.

Also to encourage retail customers to give ESCOs a try, the Joint Proposal provides for Consolidated Edison to collect incentive payments if 7,500 eligible gas accounts migrate. From now to the end of 2005, the company would be able to obtain \$40 for each of the first 10,000 gas customers who migrate, and \$50 for any additional customers. Starting in 2006, the company would obtain \$10 for each migrating customer and it would receive retention incentives for the customers who remain with the ESCOs. In all, \$8.5 million is made available to fund these incentive programs.

Up to another \$3 million is made available to promote gas retail choices. The Retail Choice Plan includes a Market Match Program, a Market Expo Program and Consolidated Edison's outreach and education activity.

The Market Match Program provides large use customers information about ESCOs and their offerings. The company will maintain an electronic Web site containing information for customers interested in obtaining solicitations from ESCOs; it would notify customers by mail; and, for customers who agree to participate, permit ESCOs access to customer load data.

The Market Expo Program provides four or more forums for large-use customers, ESCOs and Consolidated Edison to exchange retail choice information and make service offers available to customers. Customers will be invited to participate in the forums and receive a gas market presentation. Customers can meet with ESCOs and discuss the options available to them and any concerns they may have about retail access and customer choice.

Consolidated Edison will also continue its outreach and education efforts to increase customer awareness of retail choices. These efforts include market research, public information campaigns and customer contacts. About \$1.26 million is provided annually for this activity.

The company also plans to conduct annual surveys to determine whether ESCOs are satisfied with its programs. Consolidated Edison will appoint an ombudsman to address ESCO concerns and to facilitate their dealings with the utility company. It will file annual reports on the retail choice promotions, detailing its outreach and education activity and providing customer migration results.

Competitive Retail Choice Credits (24 cents/dekatherm) will continue to be provided to firm transportation customers during the next three years. The 65 cents/bill credit that customers receive for consolidated bills will also continue during the rate plan, as will the 1.2 cents/dekatherm credit used for incremental avoided costs purposes.

Gas Efficiency Programs

The Joint Proposal recommends that \$5.2 million be provided to fund and study gas energy efficiency programs. This program would either be administered by the New York State Energy Research and Development Authority (NYSERDA) or by the utility company with input provided by various governmental, environmental and consumer interest groups.

Gas System Safety

The Joint Proposal establishes performance measures for the Gas Department's leak backlog work, leak response times, and compliance with the requirements to reduce damage to gas facilities during construction activity. Negative rate adjustments would apply when the company does not meet its performance targets.

Steam System Programs

The Joint Proposal requires Consolidated Edison to take steps to increase steam sales and customers. To promote the steam business, the company would work with a newly established Steam Business Development Task Force. It will also study steam system productivity, provide greater lengths of steam main and service line extensions to steam customers without charge, and provide reduced rates to those customers who might otherwise use other types of energy. In addition, the company is developing an Energy Infrastructure Master Plan.

The proposed Task Force would consist of up to 15 individuals from local and state government, public interest, consumer and steam supplier groups. It would meet quarterly to address steam air conditioning matters and to obtain information from equipment manufacturers, building owners, contractors and others. The Task Force would track the company's progress in attracting new steam customers at various locations in Manhattan.

The Master Plan process requires the company to examine retail customers' utility service options at locations in the service area that are slated for redevelopment. With

guidance from New York City, Westchester, and NYSERDA, the company would provide utility service recommendations, including demand-side management options. It would identify the costs and other considerations for each available service option.

Finally, Consolidated Edison would hire an independent engineer to provide an investment-grade study of the long-term steam production alternatives available to the company. The study would consider the cost of producing steam at currently available units and estimate the cost and environmental benefits to repower or to replace them.

World Trade Center Costs

Funds set aside in 2002 to offset costs due to the destruction of the World Trade Center will be applied to rates during the term of the gas rate plan. The Joint Proposal allows Consolidated Edison to defer certain WTC capital costs subject to any cost recovery obtained from governmental agencies and insurance carriers.

Other Provisions

The Joint Proposal contains various provisions addressing rates, earnings reports, minor and revenue-neutral rate changes, the Commission's authority, changes in tax laws and regulatory requirements, extraordinary expenditures, the parties' support for and the proper use of the Joint Proposal, and the non-severability of its terms.

SUPPORTING STATEMENTS

Consolidated Edison

According to Consolidated Edison, the Joint Proposal balances well its need for additional revenues to provide safe, adequate and secure service with customer preferences for predictable and stable rates. The company also supports the Joint Proposal because it permits competitive retail gas rates to develop in the service territory and provides opportunities to grow the steam business.

Overall, the company believes that the Joint Proposal provides fair and reasonable resolutions for many complex rate matters that benefit customers and investors. It notes, as well, that a broad group of parties with diverse interests support the Joint Proposal. With respect to the two gas rate increase options, Consolidated Edison prefers three annual rate increases that would provide it higher rates at the end of the three-year period.

Staff

Staff considers the Joint Proposal to be in the public interest and urges us to adopt its provisions. Addressing our public policy objectives, Staff observes that the proposal continues and enhances existing programs, and implements new ones to promote retail competition in the natural gas industry.

In general, Staff favors the use of a multi-year ratemaking approach and gradual rate changes. It specifically supports the gas rate option for three annual increases. By matching the company's higher costs with annual rate changes, Staff hopes to reduce, or put off, a rate filing at the end of the three-year period.

As to steam rates, Staff supports the use of the Fuel Adjustment Clause (FAC) to provide customers the savings expected from the operation of the East River Repowering Project. This approach reduces the rate impacts that steam customers would otherwise experience. It also permits a set amount of capital costs to be recovered pending a review to determine the amount to be included in rate base.

Staff supports all the components of the Joint Proposal, including its forecasts of gas and steam sales and revenues, its 10.3% equity return allowance, and the 48% equity ratio in the capital structure used to set the steam and gas rates. While these figures do not match those first advocated by Staff, it considers them to be proper for the Joint Proposal's multi-year results. Staff also endorses the rate design proposals presented here for gas and steam service.

New York City

The City of New York supports the Joint Proposal because it provides rate stability, expands the gas operations and promotes the viability of the steam business. The City considers the proposed rate increases acceptable only because of the rate moderation provisions that are also contained in the Joint Proposal, and the gas and steam system improvements that Consolidated Edison will provide. It specifically endorses the proposed gas efficiency program and the accounting mechanism for the East Power Repowering Project costs.

The City notes that the gas rate plan provides Consolidated Edison a smaller rate increase than the company initially proposed. The City favors the option for a single increase in 2004 and a rate freeze. It also supports the provisions to provide low-income customers reduced rates.

New York City is willing to support the proposed steam rate increases because customers can expect to obtain fuel cost savings from the operation of the ERRP. The City considers these savings to be essential and claims that any greater cost assignments, or higher rates, for steam customers would be intolerable. It also supports the provisions designed to stabilize the operation of the steam system and allow it to grow.

PACE Energy Project⁶

PACE considers the Joint Proposal to be a fair resolution of the issues presented in the rate proceedings. In particular, it supports the proposed gas efficiency program. PACE believes that the \$5.2 million for gas efficiency measures is a modest sum in comparison to the amounts that other gas utility companies spend. It states that the Consolidated Edison program is a valuable first step to achieve for gas customers the same efficiency benefits that electric customers obtain through programs funded by the System Benefits Charge (SBC).

⁶ The Natural Resources Defense Council, PULP, and the Association for Energy Affordability of New York endorse and join in the PACE position.

Overall, PACE foresees increasing demands for natural gas and higher energy prices providing ample reason for Consolidated Edison to introduce cost-effective gas efficiency programs in its service area.

Public Utility Law Project

PULP notes that the proposals for resolving gas and steam rates are the results of the earnest efforts of many diverse parties and the compromises they made. It supports the programs contained in the proposals that will protect customer interests and implement sound public policy. PULP believes the rate increases initially sought by Consolidated Edison have been adequately ameliorated by the provisions the parties have negotiated. PULP specifically endorses the provisions for low-income customer gas efficiency measures and the proposal to charge low-income customers reduced gas rates for up to 90 therms.

Small Customer Marketer Coalition

The Small Customer Marketer Coalition supports the Joint Proposal for the retail access and competitive market provisions it contains. The Coalition believes that the proposal provides a good framework for competitive activity consistent with the Commission's policy favoring the development of retail energy markets.

In particular, the Coalition supports the provisions for the utility company to purchase ESCO account receivables, the continuation of competitive retail choice credits, and the incentives that encourage gas customers to migrate to ESCOs. It also supports the retail marketing and choice promotion programs, and the continued use of outreach and education. The Coalition believes these efforts will enhance business opportunities for ESCOs and recognize the utility company's cost reductions when customers turn to a retail access service.

Other Supporters

The Owners' Committee considers the Joint Proposal to be in everyone's best interests.⁷ North American Energy, Inc. believes the Joint Proposal fairly resolves the gas market restructuring matters. Similarly, Amerada Hess Corporation states that the proposal provides improvements for gas customers and promotes competition. The firm looks forward to the planned efforts that will address gas delivery imbalances and cash outs. The Consumer Power Advocates see benefits in the Joint Proposal approach to gas and steam service for years to come.

OPPOSITION AND OTHER POSITIONS

Westchester County

Westchester opposes the allocation of steam and electricity production costs contained in the Joint Proposal. Rather than the incremental cost allocations to the steam department, Westchester supports a more proportional cost allocation method. This matter was provided two days of hearings in June 2004. It has also been separately addressed in briefs filed by Westchester, New York City, Consolidated Edison and Staff on July 19, 2004. In light of this distinct process, this contested issue is fully discussed in its own section, below.

Utility Workers Union of America, AFL-CIO, Local 1-2

In these proceedings, Local 1-2 has opposed elements of the gas and steam rate filings and aspects of the Joint Proposal. The union testified in opposition to the amount of work that private contractors perform for Consolidated Edison. It believes that the utility pays them more than its union-represented employees. According to Local 1-2, as much as \$5 million could be saved if the company were to use union employees to perform the work assigned to contract labor.

⁷ The New York Energy Buyers Forum joins the Owners' Committee in supporting the Joint Proposal.

Local 1-2 criticizes the Joint Proposal for not imposing restrictions on the company's use of such labor.

Local 1-2 is also opposed to the productivity adjustments that are typically applied to utility operations in rate proceedings. According to the union, such adjustments are improper when a company has already reduced its workforce as much as it reasonably can. It considers them to be counterproductive when they place undue pressure on management to eliminate positions that are needed to perform system repairs and essential maintenance.

The union believes that Consolidated Edison's management structure may be inefficient. It urges the Commission to conduct a management audit to determine whether the company can operate more effectively with fewer managers.

It also claims that the historical data that Consolidated Edison used to allocate gas, steam and electric system costs was stale. The union had urged that a new cost study be used to allocate costs among the departments. The union generally criticizes the company for spending too little on operations and calls for more inspections of gas and steam equipment, and additional maintenance.

Finally, the union has expressed safety concerns, particularly about the construction and operation of steam main facilities along First Avenue in Manhattan.

TransGas Energy Systems, LLC

TransGas has sought to develop a cogeneration facility in Brooklyn that would produce electricity and sell steam. In this case, it has submitted limited opposition to the Joint Proposal concerning the allocation of steam system costs and the development of steam transportation rates.

Currently, there is no competitive market for steam service in New York City; however, TransGas hopes one will emerge. TransGas believes it can compete with Consolidated Edison and beat the utility's costs as long as they are calculated properly. In this regard, TransGas notes that the ratemaking allocations made in this case should not be used for

any comparative cost studies of the steam commodities and services of competing producers. Specifically addressing the steam and electric generation facilities at 74th Street and 59th Street, and the East River Repowering Project, TransGas states its views about how best to treat them in any analysis made of the TransGas and Consolidated Edison steam production and delivery costs.

As to steam transportation and delivery service (Service Classification No. 6), TransGas points out that Consolidated Edison currently has no such customers. It proposes that the existing tariff be modified to attract customers. It urges the Commission to consider a collaborative process for interested parties to develop back-up and supplementary steam service rates, and usage rates for third-party steam providers. TransGas also suggests that interconnection charges, and other matters, be addressed in a collaborative process.

State Consumer Protection Board

CPB neither supports nor opposes the Joint Proposal. Addressing the gas rate increase alternatives, CPB prefers to see a single increase in 2004 and a rate freeze. It believes this would provide greater rate stability and certainty for customers.

CONTESTED ISSUE - STEAM AND ELECTRIC COST ALLOCATIONS

Westchester's Position

Controversy arose in this case concerning the allocation of steam and electricity production costs to Consolidated Edison's departments. The Joint Proposal (supported by the utility company, Staff, New York City and various business interests in the City) would continue a practice that has been in place for twenty-five years. It would apply only incremental cost allocations to the steam department, an approach explicitly intended to sustain the steam system's viability and to moderate steam rates.

Specifically addressing the East River Repowering Project (ERRP) scheduled to begin commercial operation in 2005, the Joint Proposal would assign approximately two-thirds of the project's capital and operating costs to the electric department. Only the capital costs for the heat recovery system, the water treatment system, and the steam and water interconnections would go to the steam department. Also, only the plant's operating costs for processing water would be allocated to the steam department. As to the natural gas the facility uses, the steam department would only pay for the gas used to fire the duct burners in the steam generators. The cost of the gas used to fire the turbines would be assigned to the electric department.

Westchester County objects to these cost allocations (and to several other steam-related matters) claiming that they excessively subsidize the steam system to the detriment of the company's electric customers, including those in Westchester. The East River Repowering Project will produce 360 MW of electric capacity that is needed in New York City; nonetheless, Westchester contends that the plant is being built primarily to provide steam. It will replace the Waterside Station that is being retired and whose land is being sold for redevelopment on Manhattan's East Side.⁸ The ERRP is intended to operate as a state-of-the-art cogeneration facility that will provide reliability and economic benefits for the steam and electric systems.

To prove its contention that the ERRP is predominately a steam plant, Westchester points out that its location was selected for its proximity to the steam system. Westchester also notes that the plant's electricity is not essential for the City's needs because electricity is available from other sources that operate in the competitive market. Westchester states that

⁸ Other land adjacent to the Waterside Station on First Avenue is also being sold. See, Case 01-E-0377, Consolidated Edison Company of New York, Inc. - Real Property Transfer, Order Approving Transfer Subject to Conditions (issued May 20, 2004).

it is exceptional for Consolidated Edison to construct any electric plants after having sold most of its electric generation facilities.

Most telling, according to Westchester, is the design of the new facility and the cost of the electricity it will produce. Rather than construct a facility that uses combined-cycle, gas-fired turbine generators, Consolidate Edison has chosen, instead, to install two, simple combustion turbines. The simple combustion turbines will produce 63% less electricity than combined-cycle turbines using the same amount of natural gas. Accordingly, Westchester asserts that the ERRP electric capacity would have to be sold at about \$281 per kilowatt-year to cover the costs the Joint Proposal allocates to the electric department. This figure compares unfavorably with current prices for electric capacity in New York City of about \$130 to \$160 per kilowatt-year.

On this basis, Westchester believes that an additional \$50 million of natural gas fuel costs should be assigned to the steam department. The cost of fuel for the ERRP's first year of operation is expected to be \$158 million of which \$139 million is assigned to the electric department. According to Westchester, if the ERRP had combined-cycle turbines, it would only use \$89 million of gas to produce the same amount of electricity.

Westchester also claims that the ERRP compares unfavorably with the combined-cycle, electric generation facility the New York Power Authority (NYPA) is constructing in the City. It states that the electricity produced by NYPA will cost less and the facility will use far less natural gas. However, Consolidated Edison responds that the ERRP compares favorably with the new generation facility that KeySpan is building in the City.

In any event, according to Westchester, the incremental cost allocation method should not apply to the ERRP because its primary output is steam, not electricity. In the past, steam-electric plants were installed for their electric capacity and steam was considered a by-product. In this

instance, Westchester alleges that electricity is the by-product and steam is what the utility company requires the most. For this reason, Westchester urges a more equal sharing of the steam-electric production costs.

Addressing the impact of the proposed allocation of the East River Repowering Project costs on electric customers, Westchester claims they are worse off by the replacement of the Waterside Station. Westchester has calculated that electric customers currently pay about \$59 million annually to support the operation of the Waterside Station. Under the terms of the Joint Proposal, electric customers will pay \$91 million annually to cover ERRP costs. Westchester is opposed to this increase and deems it an additional subsidy for the steam system.

The County notes that Consolidated Edison filed this year to increase residential electric rates by about 9.2%. It also observes that the application of the renewable energy portfolio standard could increase electric rates by 1.5% to 2.25%. With this upward pressure on electric rates, Westchester believes that the electric department is in no position to provide the steam department any subsidies. It states that Consolidated Edison's electric rates are substantially above the national average and among the highest in the continental United States.

Westchester is also opposed to the electric department continuing to pay the annual, non-fuel operating costs incurred by the 59th Street and 74th Street Steam Stations.⁹ While the Joint Proposal provides for these costs to be shifted to the steam department when the Waterside and First Avenue real property proceeds are obtained, Westchester objects to the electric department continuing to pay both the Waterside Station and the East River Repowering Project costs during the two-year steam rate plan. The County also considers it unfair for

⁹ At one time, the stations produced electricity. The 59th Street facility ceased producing electricity in the mid-1990's; the 74th Street station stopped producing electricity in 1999.

electric customers to pay the property taxes for both the Waterside Station and the ERRP over the next two years.

Finally, according to Westchester, a proper application of the incremental cost methodology would assign to the steam department the operation costs Consolidated Edison incurs for the heat recovery system and other steam equipment. Consolidated Edison did not make any such assignments to the steam system because it considered the amounts involved to be de minimis. Westchester also objects to the utility company's cost allocations for gas-fired duct burners and plant employees who work on the water treatment systems. It further believes that some of the components of the ERRP building structure (i.e., concrete pads and miscellaneous steel) should be assigned to the steam department.

The Proponents

1. New York City

The City urges us to adopt and not alter the Joint Proposal's provisions, including the proposed cost allocations to the electric and steam departments. According to the City, the cost allocations are fair and consistent with the Commission's application of cost causation principles in past cases. Were we to change the allocations, the City believes the comprehensive agreement the parties achieved would unravel and the broad-based support for the Joint Proposal would be fatally disturbed. The City points out that its support for the Joint Proposal is founded on the proposed resolution of the cost allocation issues.

With respect to the East River Repowering Project, the City believes that the incremental cost allocation method fully comports with Commission precedent dating back to 1978.¹⁰ The City points out that the Commission reaffirmed the incremental approach in 2000 when it examined the long-term plans for the

¹⁰ Case 27276, Consolidated Edison Company of New York - Steam Rates, Opinion No. 78-27, 18 NYPSC 1770 (issued November 14, 1978).

steam system.¹¹ It insists that the continued use of this approach is necessary to avert a mass exodus of customers from the steam system that would be detrimental to the operation of the electric and gas systems. New York City points out that steam customers will incur sizable rate increases under the terms of the Joint Proposal, approximately 4.5% annually. Beyond this, the City claims, any additional increases would have adverse consequences for all customers.

The City estimates that steam customer bills could increase by 22% to 25% were Westchester's recommendations to be adopted. It states that this is untenable because it would force customers to leave the system. Any large amount of customer migration, causing sales to dwindle and rates to spiral upwards, would doom the steam system. Moreover, were such customers to use electricity and natural gas for their heating and cooling needs, the City believes there could be capacity shortages and sizable investments needed to upgrade the other systems.

Thus, the City considers the Joint Proposal's cost allocations to be fair to all customers. It points out that the East River Repowering Project was undertaken for the dual purpose of providing replacement steam and electric capacity for an in-City load pockets. Electric customers, according to the City, can expect to benefit from lower energy prices, reduced capacity costs, and greater reliability. The City also considers the expected proceeds from the sale of the Waterside Station and the First Avenue properties to be advantageous for electric and steam customers.

Addressing the costs of the 59th Street and the 74th Street stations, the City supports the transfer from the electric to the steam department when the proceeds become available from the sale of the other properties. According to the City, this is consistent with the Commission's finding in 2000 that abrupt rate changes for steam customers should be

¹¹ Case 99-S-1621, Consolidated Edison Company of New York - Steam Rates, Opinion No. 00-15 (issued December 1, 2000).

avoided and the costs transferred coincident with the real property transaction.¹²

Addressing Westchester's position, the City claims that the County has made no effort to provide for the continuing viability of the steam system. The City also claims that Westchester has incorrectly refused to recognize the electric system benefits provided by the ERRP, including the new capacity needed to serve the East River load pocket.

2. Consolidated Edison

Consolidated Edison also urges us to continue to use the incremental approach to resolve the stark reality facing the steam system. Were Westchester's rate proposal adopted and reality ignored, Consolidated Edison believes the steam system would be poised for disaster with no advantage for the electric system. According to the utility company, nothing has changed since the Commission first approved the use of incremental costs. Recent study has confirmed that the steam system still requires its use.

Consolidated Edison believes it matters little whether steam is deemed to be the ERRP's primary or secondary product. It insists that the facility will serve the real needs and true requirements of both systems. In these circumstances, it states, the incremental approach is needed to achieve economically efficient cost allocations, to avoid undesirable rate impacts and to avert additional costs. According to the company, it is in the best interest of both departments, and the combined operations, to discourage steam customers from switching to electric and gas service. Such conversions would trigger large capital investments the costs of which would be entirely borne by electric customers.

As to the application of the incremental approach to the East River Repowering Project, and the flaws Westchester County claims to have identified, the company insists that up to \$200,000 of operating costs related to the maintenance and

¹² Id., p. 20.

painting of the heat recovery system is de minimus (less than a percent of the total ERRP operating and maintenance budget). The company also insists that the common costs for the building's foundation and lighting equipment should not be allocated to the steam department under the incremental approach.

Addressing ERRP fuel costs, Consolidated Edison points out that the same allocations have been used for the Waterside Station. Adhering to the Commission's past decisions, it states, all cogeneration benefits should be assigned to the steam department. According to Consolidated Edison, it was not possible for it to build the combined-cycle plant Westchester believes it should have. It states that no suitable site was available for any lower overall costs. Further, the company insists that the ERRP is thermally efficient and best suited for the combined needs of the steam and electric systems. As the replacement for the Waterside Station, the company claims that the ERRP is expected to provide electric capacity at \$318 per kilowatt-year which is a substantially less than the \$450 per kilowatt-year capacity that Waterside has provided. It also notes more ERRP capital costs are being assigned to the steam department in comparison to Waterside (33% versus only 5%).

With respect to 59th Street and 74th Street Station costs, Consolidated Edison's position is the same as New York City's -- the transfer cannot occur in advance of the real property sales without an abrupt rate increase for steam customers.

3. DPS Staff

Staff supports the replacement of the Waterside Station with the East River Repowering Project. It states that the ERRP will burn less fuel than Waterside, produce fewer air emissions and improve air quality. According to Staff, the time has arrived to retire the older facility and to obtain replacement electricity and steam from a more efficient modern plant. Staff states that the new plant will operate at a lower cost, will produce steam more economically, and provide more

electricity than Waterside. Staff confirms that the ERRP will alleviate load pockets in the City and help to defer costly transmission line reinforcements. Thus, Staff considers the proposed cost allocations between the departments to be rational and reasonable.

Commenting on the sale of the Waterside and First Avenue real property, Staff states that the sizable net gain from the sale will be used to benefit utility service customers. Addressing the costs of the 59th Street and 74th Street Stations, Staff concurs with the other proponents that the transfer to the steam department must coincide with the real estate sale to mitigate the rate impacts.

Responding to Westchester's claim that the electric department subsidizes steam operations, Staff notes that the Commission must balance the rate impacts for all customers and work to maintain a viable steam system. In recent times, the Commission chose not to provide electric customers a one percent rate decrease that meant steam customers would experience a 20% rate increase.¹³ Here too, Staff believes we should not subject steam customers to a 23% rate increase to provide electric customers slightly lower electric rates. Staff points out that the steam system must attract new customers, and serve greater loads, to remain viable and that the rate increase advocated by Westchester is antithetical to achieving this objective.

DISCUSSION AND CONCLUSION

We have reviewed the terms of the Joint Proposal, examined Consolidated Edison's rate filings and considered the record made in these cases. We have also considered Westchester County's opposition to the proposed allocation of electric and steam costs, Local 1-2's various concerns and the public comments received. Overall, we find that the proposed rate increases, as presented in the parties' multi-year rate plans, have been adequately supported and that Consolidated Edison can use additional revenues to serve customer interests in the

¹³ Case 99-S-1621, supra, Opinion No. 00-15, p. 20.

provision of safe and adequate gas and steam service. As discussed below, we find that the proposed terms are just and reasonable, and in the public interest.

Beginning with the two alternatives for increasing gas rates over the next three years, either approach is permissible and could be used here. Significantly, both are designed to provide the company the same amount of rate relief during the next three years. Only at the end of the three-year period would the company's position differ. If Consolidated Edison received a single increase in 2004, and base gas rates remained as established for the next three years, rate levels at the end of the period would be lower than were the company to receive three annual rate increases.

We agree with New York City and the State Consumer Protection Board that the single rate increase alternative is preferable here for the current rate stability it will provide customers. While Consolidated Edison and Staff have valid concerns about the company's financial position and ongoing operations subsequent to the three year period being addressed here, we find that a single rate increase is preferable in the circumstances presented in this case.

Addressing the other natural gas service terms of the Joint Proposal, to a large extent they have not been challenged nor have they generated any material opposition. In fact, most of the parties have stated good reasons for supporting the multi-year gas rate plan and have urged us to adopt it in its entirety.

In particular, the retail gas service provisions have garnered ample support. The ESCO and marketer representatives strongly endorse the efforts Consolidated Edison will undertake to aid in the establishment of a viable market structure offering retail customers competitive choices for their energy needs. We find that these provisions properly maintain the programs that were previously initiated and they institute new programs (addressing ESCO accounts receivables, customer migration and retail service selections) that are also needed. The involvement of Consolidated Edison in these matters, to the

degree specified by the Joint Proposal, is proper and warranted by current market conditions.

Also, the Joint Proposal provisions promoting gas efficiency have received full support from the municipal and public interest parties. While we find that the efficient use of natural gas supplies can be improved by adopting the terms presented here. Their implementation will provide consumers valuable information concerning energy costs, current technology and the opportunities available for them to achieve greater efficiency and savings. While we find that either NYSERDA or Consolidated Edison can be expected to administer this program properly, we would prefer that NYSERDA run it given the agency's proven record in operating statewide energy efficiency programs.

Similarly, we find that the other terms of the multi-year gas rate plan are acceptable and should be adopted. Among the numerous ratemaking provisions we are adopting, we note that the terms will resolve issues pertaining to \$5.4 million of lost and unaccounted for gas that was referred to these proceedings for resolution.¹⁴ The parties' investigation disclosed computational errors and determined the proper amount of the customer refunds.

We also find that the proposed treatment of pension and other post-employment benefit costs is acceptable. At first, this matter presented a significant controversy that the parties were prepared to litigate. However, they ultimately devised a means for Consolidated Edison to return to the approach provided by the Commission's Pension Policy Statement and to reconcile the company's actual pension and retirement expenses with the amounts allowed in rates. We also note that, in the future, Consolidated Edison's gas and steam operations cannot depart from the established policy without first obtaining approval to do so.

Turning to the terms of the two-year steam rate plan, the most significant opposition to them comes from Westchester

¹⁴ Case 03-G-1325, et al., Consolidated Edison Company of New York, Inc., Order Concerning Reconciliation of Gas Costs (issued December 23, 2003).

County where steam service is not available. The County is opposed to Consolidated Edison's electric rates containing any steam system costs that should not be allocated to the electric department. This is not a novel issue.

In 1975, the Commission considered whether to move from the "by-product" pricing of steam produced at steam-electric stations. It recognized that some of the company's electric generators were producing steam as a separate commodity and it began to consider whether the steam department should bear a more proportionate share of the generating station costs. At that time, however, the Commission was unable to render a complete determination because it did not know the probable, and most desirable, future course for the New York City steam system.¹⁵

By 1978, after a large electric system blackout with serious and wide-ranging impacts, the Commission arrived at the preferred allocation of steam-electric production costs.¹⁶ To stem an unacceptable exodus of steam customers to electric and gas service, the Commission adopted steam rates, and set cost allocations, that were purposely designed to retain steam customers and maintain a viable steam system. It selected the "incremental" method that has remained in use ever since, which requires steam customers to pay only the separate steam production and capital costs. In recent years, the Commission has affirmed the continued use of the incremental method.¹⁷

In this case, Westchester claims a "more proportionate" allocation of the East River Repowering Project costs is warranted because of the specific circumstances related to this facility. Contrary to Westchester's allegations, we find that the ERRP was selected and is being constructed for the substantial benefits it will provide for both the electric and

¹⁵ Case 26794, Consolidated Edison of New York, Inc. - Steam Rates, Opinion No. 75-36 (issued November 25, 1975), 15 NY PSC 2220; 2236-38.

¹⁶ Case 27276, supra, Opinion No. 78-27, 18 NYPSC 1764.

¹⁷ Case 99-S-1621, supra, Opinion No. 00-15.

steam systems. Westchester is incorrect to assert that the facility's primary or exclusive benefits only extend to the steam system. The electric system will receive substantial benefits from this in-City electric plant because it will serve load pockets on Manhattan's East Side and elsewhere in the borough. Consequently, we find that upon its completion and commencement of operations, the ERRP will become an essential component of both the electric and steam systems.

We also reject Westchester's claim that electric ratepayers would incur any economic harm from the ERRP cost allocations as compared to the cost allocations for the Waterside facility. While the prevailing market prices for electricity in New York City do not match, or cover entirely, the amount of ERRP-related costs allocated to the electric department, they do, in fact, eliminate a substantial portion of them from further consideration. Moreover, the portion that is not covered is roughly matched by the amount of Waterside-related costs that Consolidated Edison will be able to avoid.¹⁸ On these bases alone it is fair to conclude, and we find, that the cost allocations are fair.

Beyond this, any suggestion that the ERRP does not make economic sense for electric customers is entirely eliminated by the fact that electric customers will share in the net gain and proceeds obtained from the sale of the utility property located on First Avenue, and they will obtain this electricity from a new, efficient facility that produces a low level of environmental emissions. We find that the sale of this real property provides an important opportunity for East Side

¹⁸ The electric department's share of the ERRP-related costs during the upcoming rate year is about \$219 million; the current market value for the ERRP-provided electricity is about \$159 million. On the record made in this case, we find that Consolidated Edison should be able to avoid approximately \$57 million of Waterside-facility costs when the replacement occurs. (Tr. 290) This analysis strongly suggests that only a small amount of the ERRP costs (currently \$3 million) might be characterized, as Westchester has, as an economic detriment for electric customers.

redevelopment that offers substantial societal benefits for the greater metropolitan area. Moreover, the continued operation of the steam system means that Consolidated Edison will not construct (or incur the costs for) electric transmission and distribution system reinforcements that would be needed to serve the energy loads of the customers who would switch. This too amounts to a sizable savings for the electric department obtained by adopting the incremental approach to the steam system that is supported by virtually all the interested parties except for Westchester.

Overall, having fully examined the Joint Proposal's terms addressing the ERRP and the proposed cost allocation methodology, we accept them.¹⁹ However, as to Westchester's assertions that a portion of the ERRP building and structural components should be assigned to the steam department, and a greater amount of operation and maintenance expenses, we find that a portion of the building structure may be properly allocated to the steam department and that the Joint Proposal does not allocate all the operation and maintenance expense items that should be assigned to the steam operations. The ERRP will begin to affect rates starting in 2005. At that time, a greater amount of operation and maintenance expense, and a portion of the building structure, shall be included in the ERRP costs used to set the Fuel Adjustment Clause portion of the steam customers' bills.

We reject Westchester's opposition to the proposal to postpone the transfer of the 74th Street and 59th Street Station costs to the steam department. The parties' proposal to postpone the transfer is entirely consistent with the Commission's finding in 2000 that the transfer should occur when the steam customer impacts can be mitigated with the steam department's share of the real estate proceeds.²⁰ Until then, it remains proper to allocate these costs to the electric department for the reasons the Commission previously stated.

¹⁹ Joint Proposal Section C. 3 and Appendix F.

²⁰ Case 99-S-1621, supra, pp. 20-21. Similar treatment was provided in Case 01-E-0377, supra, p. 79.

Thus, we find that the two-year steam rate plan is well conceived for addressing the higher costs that Consolidated Edison will incur to provide steam service. Rather than implement a one-year rate increase that would have deleterious customer impacts, the Joint Proposal uses the cost savings expected to be achieved by the operation of the East River Repowering Project to produce a more gradual rate increase over two years that customers are better able to handle.²¹ This approach serves well to maintain the viability of the steam system while it continues to receive the attention needed to maintain customer levels and increase sales to sustain the steam operations.

The Joint Proposal's terms properly address the steam system's role and function in the economic redevelopment plans for New York City. They establish an appropriate task force to devise a development plan and require the utility to have a master plan for delivering energy to those locations where redevelopment is expected to occur.²² The Joint Proposal also accommodates steam system expansions well by modifying the company's current practices for service line and steam main extensions.

Addressing the comments TransGas submitted in these cases as the developer of a proposed cogeneration facility, this party correctly observed that the cost allocations we are adopting here for ratemaking purposes would not control (and would probably have no application) in the calculation of Consolidated Edison's avoidable steam costs for competitive market purposes. Whenever TransGas is in a position to provide steam that competes with Consolidated Edison's service, a proper determination of the utility company's avoidable costs will be

²¹ Joint Proposal, Appendix A, pages 3 and 4.

²² We find that it is proper for the task force to concentrate on the delivery of steam service given the system's current difficulties and its importance to the City's infrastructure. We also note that the Joint Proposal adequately addresses the need for economic development in Westchester. See, Joint Proposal Section H.7.

necessary. However, until TransGas can offer steam to customers, there is no need for us to consider any such cost calculations, nor any reason for us to specify the terms of any such cost studies here.

TransGas also proposed that a collaborative proceeding be established to change Consolidated Edison's steam transportation tariff and rates to accommodate its cogeneration facility. Here too, we find that it is too early to anticipate the ultimate status of the proposed cogeneration facility.

It is also worth noting, at this point, that the Commission recently addressed the provision of electricity and natural gas in the State's developing competitive markets.²³ We have stated goals and a vision for the further development of robust retail energy competition, and we have provided a flexible framework for analyzing and responding to evolving market conditions. From our review of the Joint Proposal submitted in these proceedings, we find that its terms and provisions are consistent with the stated goals as they are clearly designed to foster the development of competitive markets.

Turning to the concerns Local 1-2 presented in these proceedings, its complaint about Consolidated Edison's use of contract labor pertains to the company's entire operations. It was raised here with respect to the gas and steam departments where the union alleges the company's costs could be about \$5 million less were it to use its regular labor force.

We find that the record made in these cases neither supports a rejection of the Joint Proposal, nor any substantial modification or adjustment to the terms of the steam or gas rate plans, to account for any greater efficiency Local 1-2 believes the company can achieve. To begin, Consolidated Edison disputes the amount of the adjustment Local 1-2 has calculated and it is

²³ Case 00-M-0504, Competitive Energy Markets, Statement of Policy on Further Steps Toward Competition in Retail Energy Markets (issued August 25, 2004); Statement of Policy on Unbundling and Order Directing Tariff Filings (issued August 25, 2004).

not clear, on this record, that the amount the union has presented is proper for ratemaking purposes. Clearly, Staff's review of the utility operations has offered no support for the adjustment Local 1-2 has proposed. In addition to Consolidated Edison's opposition to the proposed adjustment, we note that the Joint Proposal contains a productivity adjustment embedded in the gas and steam rates (opposed by the union) which takes into account all potential efficiency improvements in the company's operations for which no other, more specific adjustment has been made. Moreover, such productivity adjustments are entirely appropriate for the reasons the Commission has stated in numerous rate proceedings.

Local 1-2 also proposed that we initiate a management audit to determine whether Consolidated Edison has too many managers. We find that the union has not provided an adequate basis on the record of these proceedings for us to order the management audit it has proposed. It would have to provide more than just a simple ratio of management to weekly employees to warrant the amount of expense and effort that a full audit would entail.

Finally, Local 1-2 presented safety concerns about the reliable operation of the steam and gas systems, including one about the construction and operation of a steam main along First Avenue in Manhattan. More recently, by letter dated August 25, 2004, the Public Utility Law Project (PULP) also addressed the Joint Proposal's safety provisions. It observes that electric safety matters are being considered in Case 04-M-0159 and that the Consolidated Edison gas rate plan contains ample safety-related provisions.²⁴ It also notes that the steam rate plan does not contain any specific performance measures. Therefore, PULP requests us to clarify that our adoption of the Joint Proposal's terms does not preclude any additional safety-related actions or limit us from imposing safety requirements either in the context of Case 04-M-0159 or any other proceeding that is

²⁴ Case 04-M-0159, Consolidated Edison Company of New York, Inc. - Electric Transmission and Distribution System Safety, Order on Staff Proposal (issued July 30, 2004).

established to address the safe provision of natural gas or steam service. Consolidated Edison responded to PULP on September 9, 2004. It asserts that the Joint Proposal requires no clarification or changes. It also objects to PULP's late submission which it believes should be rejected.

We acknowledge Local 1-2 and PULP's interest in and concerns about safety-related matters. Ongoing consideration of electric safety issues in Case 04-M-0159, and any gas and steam safety matters, do not require us to change the Joint Proposal. Our adoption of the Joint Proposal's terms and provisions does not preclude or limit any action in any proceeding that is needed to address safety matters.

The Commission orders:

1. The terms and conditions of the Joint Proposal attached to this order, to the extent they are consistent with the provisions of this order, are adopted and hereby incorporated and made a part of this order.

2. By not later than October 15, 2004, Consolidated Edison Company of New York, Inc. shall cancel the tariff leaves and supplements listed in the Appendix to this order.

3. The company is authorized to file on not less than one day's notice, to take effect on or after October 18, 2004 on a temporary basis, such further gas and steam tariff changes as are necessary to effectuate the terms of this order. The company is also authorized to file such tariff changes as are necessary to effectuate the steam rate year 2 of the Joint Proposal as adopted in this order. The steam rate year 2 changes shall be allowed to become effective on a temporary basis on one day's notice. The company shall serve copies of its filings upon all parties to these proceedings. Any comments on the compliance filings must be received at the Commission's offices within ten days of service of the company's proposed amendments. The amendments specified in the compliance filing shall not become effective on a permanent basis until approved by the Commission and will be subject to refund if any showing

is made that the revisions are not in compliance with this order.

4. The requirements of Public Service Law §§66(12)(b) and 80(10)(b) that newspaper publication be completed before the effective date of the amendments are waived; provided, however, that the company shall file with the Commission, no later than six weeks following the effective date of each filing, proof that a notice to the public of the changes proposed by the amendments and their effective date has been published once a week for four successive weeks in newspapers having general circulation in the areas affected by the amendments.

5. These proceedings are continued.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Secretary

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 03-G-1671 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Gas Service.

CASE 03-S-1672 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Steam Service.

JOINT PROPOSAL

May 28, 2004

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 03-G-1671 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Gas Service.

CASE 03-S-1672 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Steam Service.

JOINT PROPOSAL

THIS JOINT PROPOSAL (“Proposal”) is made the 28th day of May, 2004, by and between Consolidated Edison Company of New York, Inc. (“Con Edison” or the “Company”), Staff of the New York State Department of Public Service (“Staff”), the City of New York, Consumer Power Advocates, New York Energy Buyers Forum, Owners’ Committee on Electric Rates, Inc., Amerada Hess Corporation, Small Customer Marketer Coalition, Pace Law School Energy Project, Natural Resources Defense Council, Association for Energy Affordability, Inc., Public Utility Law Project of New York, Inc., National Energy Marketers Association, North American Energy, Inc., and other parties whose signature pages are attached to this Proposal (collectively referred to herein as the “Signatory Parties”).

This Proposal was developed pursuant to and in accordance with the New York State Public Service Commission’s (“Commission”) Settlement Procedures, as set forth in 16 NYCRR § 3.9. Parties were notified of pending settlement negotiations, prior to the commencement of negotiations, by electronic and first class mail, on March 18, 2004.¹

¹ A copy of the notice of settlement was filed with the Secretary.

All-party settlement conferences were held, with appropriate advance notice to all parties, on March 26, 2004, April 1, 2004, April 8, 2004, April 21, 2004, May 19, 2004, May 20, 2004 and May 24, 2004. By agreement of the parties, other smaller breakout groups held various settlement meetings and conference calls with prior notice to all parties.

A. Overall Framework

On April 22, 2002, the Commission approved a three-year rate plan covering Con Edison's gas service through the rate year ending September 30, 2004, in Case Nos. 00-G-1456 and 97-G-1380 ("2002 Gas Rate Plan"). The 2002 Gas Rate Plan provided that base rate revenues would be reduced for retail gas sales and gas transportation services by \$25 million on an annual basis.

On December 1, 2000, the Commission approved a four-year rate plan covering Con Edison's steam service through the rate year ending September 30, 2004, in Case No. 99-S-1621 ("2000 Steam Rate Plan"). The 2000 Steam Rate Plan provided for a \$16.6 million increase in steam rates effective for the first rate year, followed by a general freeze in base rates for the following three years.

This Proposal sets forth the terms of a three-year gas rate plan, commencing October 1, 2004 and expiring September 30, 2007 ("Gas Rate Plan"), and a two-year steam rate plan, commencing October 1, 2004 and expiring September 30, 2006 ("Steam Rate Plan"). The components of the revenue requirement, as agreed to by the Signatory Parties, are annexed as Appendix A. For the purposes of this Proposal, "First Rate Year" or "RY1" means the rate year ending September 30, 2005; "Second Rate Year" or "RY2" means the rate year ending September 30, 2006; and "Third Rate Year" or "RY3" means the rate year ending September 30, 2007.

This Proposal covers the following aspects of Con Edison's Gas and Steam Rate Plans:

- B. Gas Rates and Revenue Levels**
- C. Steam Rates and Revenue Levels**
- D. Computation and Disposition of Earnings**
- E. Reconciliations**
- F. Additional Rate Provisions Common To Gas and Steam Rates**
- G. Gas-Only Items**
- H. Steam-Only Items**
- I. Other Provisions**

B. Gas Rates And Revenue Levels.

This Proposal covers Con Edison's gas rates and charges for retail gas sales and gas transportation services for the term of the Gas Rate Plan.²

1. Revenue Levels. The Signatory Parties agree that the revenue requirement for Con Edison's gas business for the term of this Gas Rate Plan should be higher than the amount set forth in the 2002 Gas Rate Plan. Two options are presented to the Commission for its consideration with respect to implementing the base rate increase. Under Option A, the increases would be staged over the three year term; under Option B, the increases would be implemented, in total, in RY1, with base rates frozen in RYs 2 and 3. The details and composition of the base delivery revenue requirement under both Options are set forth on Appendix B. Under both Options³, the base rate increases reflect, among other adjustments, (i) amortization of the \$38.5 million

² Unless specifically stated otherwise in this Proposal, the terms "customers" and "base rate" when used for gas service apply to the Company's firm customers, excluding CNG, Bypass and Power Generation customers under Service Classification ("SC") No. 9, and does not include the Company's interruptible or off-peak firm customers.

³ Unless otherwise specified, the provisions of this Proposal apply to either option.

(including interest) set aside in the 2002 Gas Rate Plan to recover World Trade Center (“WTC”) costs and (ii) a base rate revenue imputation of \$35 million attributable to Non-Firm Revenues, as defined in paragraph B.3. Non-Firm Revenues in excess of \$35 million for each of the RYs 1, 2 and 3 will be shared by customers and the Company in accordance with paragraph B.3.

i. Option A. In the First Rate Year, the Company’s base rates will increase by \$28.7 million. The Second Rate Year and Third Rate Year base rate increases, which reflect estimated increases in pension costs, property taxes and net plant additions, will be \$18.4 million and \$18.3 million, respectively.

In addition, to settle certain issues as discussed below, the \$18.4 million and \$18.3 million rate increases for RY2 and RY3, respectively, reflect a reduction of \$17.5 million over those two rate years. That is, the Company’s otherwise required rate increase has been reduced by \$4.7 million in RY2 (two year impact equates to \$9.4 million) and by an additional \$8.1 million in RY3. To record the Company’s liability for these RY2 and RY3 reductions, the Company will, upon Commission approval of this Proposal, record a one-time charge to pre-tax earnings of \$17.5 million and establish a regulatory liability. The purpose of this charge is to settle unresolved issues raised in this proceeding, including issues related to the Company's pension and Other Post-Employment Benefits (“OPEB”) costs and prospective application of the provisions of the Commission's Pension Policy Statement.⁴

ii. Option B. In the First Rate Year, the Company's base delivery rates will increase by \$46.8 million. The Company's base delivery rates will remain fixed at that amount

⁴ Case 91-M-0890, In the Matter of the Development of a Statement of Policy Concerning the Accounting and Ratemaking Treatment for Pensions and Post Retirement Benefits Other than Pensions, Statement of Policy and Order Concerning the Accounting and Ratemaking Treatment for Pensions and Post Retirement Benefits Other than Pensions (issued September 7, 1993) (“Pension Policy Statement”).

for the Second and Third Rate Years. As noted above, this increase reflects a reduction in the base rates of \$17.5 million attributable to settlement of issues raised in this proceeding, including those related to the Company's pension and OPEB costs and prospective application of the provisions of the Commission's Pension Policy Statement. The Company will, upon Commission approval of this Proposal, record a one-time charge to pre-tax earnings of \$17.5 million and establish a regulatory liability. The Company will utilize deferred accounting to defer the difference between the portion of the increase attributable to the First Rate Year and the portions attributable to the Second and Third Rate Years.⁵

2. **Rate Design.** The Company's gas delivery rates will be designed to implement the base rate increases discussed in section B.1 and a low-income rate program, in accordance with Appendix C.

3. **Non-Firm Revenues.** For each Rate Year, the following revenues shall constitute "Non-Firm Revenues:"

- i. Net base revenues⁶ derived from:

⁵ As described in Appendix B, of the total \$46.8 million increase under Option B, \$28.7 million (less interest of \$200,000 for a total of \$28.5 million) is attributable to RY1, with \$18.3 million remaining to be deferred for RYs 2 and 3.

⁶ Net base revenues mean total revenues less the following, as applicable: taxes, actual cost of gas (reflecting, for example, hedging costs and gas supplier take-or-pay charges), balancing and associated charges (e.g., cash-out charges and credits), and any revenues included in total revenues related to reimbursements for facility costs associated with providing service, including, but not limited to, metering and communication equipment, service pipes and lines, service connections, main extensions, measuring and regulating equipment and system reinforcements and other facilities as necessary to render service. For example, Con Edison will be constructing facilities to serve power generators over the next several years. The Company plans to recover its capital investment from the power generators for these projects over terms varying between four to ten years.

- a. Customers receiving interruptible service under SC 12 Rate 1 and SC 9 (Rates B and D);⁷ and
 - b. Power generation customers⁸ receiving interruptible or off-peak firm service, including off-peak firm service under SC 9 Rate D(2) or special negotiated contract; the New York Power Authority (in excess of \$3.1 million per Rate Year, which is the level reflected in base rates); interruptible or off-peak firm service to Company-owned power generation, steam and steam-electric plants and existing, new and divested power generation facilities owned by third parties pursuant to, for example, SC 9 Rate D(1); and
- ii. Net revenues derived from the use of interstate pipeline capacity for capacity releases;⁹ for or by customers taking service under off-peak firm SC 12 Rate 2; for or by interruptible or off-peak firm customers taking service under negotiated bypass SC 9 Rate D(1); for SC 19 and bundled sales; and other off-system transactions (e.g., gas supplied to the Company's steam and steam/electric plants); and
 - iii. Gas balancing revenues derived from gas balancing services provided to SC 9 and 12 interruptible and off-peak firm customers, CNG, bypass and power generation customers and SC 20 marketers serving SC 9 transportation customers.

The Company is permitted to retain 100 percent of the first \$35 million of Non-Firm Revenues during each Rate Year of the Gas Rate Plan, which is the level imputed to base rates.

Each Rate Year, Non-Firm Revenues above \$35 million shall be allocated to customers in the following proportions: (i) 80 percent of the amount in excess of \$35 million up to \$50 million; (ii)

⁷ As set forth in Appendix C, paragraph C (recovery of interruptible plant), net base revenues will exclude all revenues from a customer commencing service after October 1, 2004 until all facility costs from the installation associated with that customer are fully recovered.

⁸ For the purposes of this paragraph B.3, power generation customers do not include cogeneration or other customers taking off-peak firm service under SC 12 (Rate 2) or SC 9 Rate C.

⁹ Net capacity release revenues means the credits afforded the Company after making any necessary adjustments (e.g., the adjustment to the Weighted Average Cost Of Capacity applicable to capacity releases to firm customers and/or ESCOs serving firm customers under the Company's capacity release program that became effective November 1, 2001 and any amended, extended, or superseding programs).

75 percent of the amount in excess of \$50 million up to \$70 million; and (iii) 90 percent of the amount in excess of \$70 million. In the event the Commission adopts Option B in paragraph B.1, and except as otherwise provided in this Proposal, 50 percent of Non-Firm Revenues allocated to customers will be deferred, with interest, for future customer benefit.

4. Factor of Adjustment Ratio.

i. Prospective Ratio

The monthly Gas Cost Factor (“GCF”) will reflect a Factor of Adjustment Ratio for line losses equal to 1.0299 for RY 1, which is based on a RY1 line loss factor (“LLF”) of 2.9%.¹⁰ The Factor of Adjustment Ratio for line losses for succeeding Rate Years will be calculated so as to reflect the Company's three-year average actual line losses.¹¹ However, the Factor of Adjustment Ratio will not change if the three-year average actual line losses on which the Ratio is based falls within +/- 5% of the prior LLF, and for purpose of calculating the annual GCF reconciliation, the applicable LLF will also not change.¹²

The Company may petition the Commission to exclude from the calculation(s) for any Rate Year the actual lost and unaccounted for percentage(s) for one or more prior Rate Years if the Company believes the percentage(s) are anomalous or the result of an error. In the event the

¹⁰ 1.0299 is equivalent to a fraction having a numerator of 1 and a denominator of 1 minus .029.

¹¹ For example, the LLFs for RYs 2 and 3 will be the three year average actual line losses as determined for the 36 months ending August 31, 2005 and August 31, 2006, respectively. The LLF for each year of the three year average will be calculated using the methodology established in this Proposal.

¹² The applicable Factor of Adjustment Ratio will be used to determine the amount of gas to be retained by the Company from SC 9 transportation quantities as an allowance for losses.

percentage for a prior year is excluded, the next most recent Rate Year's percentage will be used in the calculation.¹³

The annual GCF reconciliation will reflect actual gas lost and unaccounted for, calculated as follows:

- a. If actual line losses are less than the applicable LLF (e.g., 2.9% in RY 1), the Company will retain the benefit of the difference between the LLF and actual line losses up to and including 1% below the LLF (i.e., down to 1.9%), and will continue to reflect for the benefit of customers any actual line losses more than 1% below the LLF (i.e., below 1.9%); and
- b. If actual line losses are greater than the applicable LLF (e.g., 2.9% in RY 1), the Company will bear the cost of the difference between the LLF and actual line losses up to and including 1% above the LLF (i.e., up to 3.9%), and customers will continue to bear the cost of any actual line losses more than 1% above the LLF (i.e., above 3.9%);

provided, however, in no event will the Company retain or bear more than \$6.25 million for any Rate Year related to line loss differentials.

Actual lost and unaccounted for gas will be calculated as follows:

Total Distribution Sendout (Marketer, Direct Customer and Con Edison deliveries, netting out gas for power generation and LNG injections) vs. Total Customer Meter Volumes (i.e., firm sales and transportation, interruptible and off-peak firm sales and transportation, Company use, netting out gas for power generation).

A sample calculation of the gas lost and unaccounted for methodology is attached as Appendix D.

¹³ For example, if in 2007 the Company successfully claims the 2005 percentage is anomalous and should be excluded, the ratio for 2007 would be calculated on the percentages for 2003, 2004 and 2006.

ii. Disposition of 2003 Petition

The Company requested suspension of a refund of \$5.4 million related to gas line losses for the 12 months ended August 31, 2003. The Commission's December 23, 2003 Order Concerning Reconciliation of Gas Costs, in Case 03-G-1325, et al., provided for the Company to resolve its request to eliminate or adjust its refund under the currently-effective line loss incentive mechanism in this proceeding. During the course of this proceeding, the Signatory Parties determined that the calculation was not anomalous but that there was a computational error and that the refund should be \$2.7 million, not \$5.4 million. Further, as of April 2004, the Company refunded \$2.77 million to customers through the GCF.

The Signatory Parties agree that this Proposal resolves this matter and that the customers have already received the refund to which they are entitled. The Signatory Parties further agree that there are multiple reasonable interpretations of the December 23 Order, including the interpretation that Con Edison was not required to make the refund until the Commission issues its decision in this proceeding. In recognition of this interpretation, it is appropriate for Con Edison to suspend refunding the difference between the \$2.7 million and the \$5.4 million discussed in the December 23 Order pending Commission action on this Proposal.¹⁴ The Signatory Parties recommend that the Commission accept this Proposal as a modification to, and in full satisfaction of, the requirements of the December 23 Order.

C. Steam Rates And Revenue Levels.

The Proposal covers Con Edison's steam rates and charges for retail steam sales and steam transportation service for the term of the Steam Rate Plan.

¹⁴ The Company will reconcile any difference between \$2.7 million and the actual amount refunded in its annual reconciliation of gas costs.

1. **Revenue Levels.** The Proposal provides for the increase for the First Rate Year to be phased in over the two-year period covered by this Proposal, resulting in an increase in base rates for the First Rate Year of \$49.6 million and an increase in base rates for the Second Rate Year, which also reflects estimated increases in pension costs, property taxes and net plant additions, of \$27.4 million. The Company will establish a regulatory asset in RY1 and accrue revenues of \$13.0 million, plus interest.¹⁵ The accrued revenues will be reversed in RY2. The accrued interest will continue to be deferred for future recovery.

In addition, to resolve certain issues, including issues related to the Company's pension and OPEB costs and prospective application of the provisions of the Commission's Pension Policy Statement, the \$27.4 million rate increase for RY2 reflects a reduction of \$6.2 million. To record the Company's liability for this \$6.2 million future rate reduction, the Company will, upon Commission approval of this Proposal, record a one-time charge to pre-tax earnings of \$6.2 million and establish a regulatory liability.

2. **Rate Design and Fuel Costs.**

i. **Allocation of Base Rate Increase.** The steam base rate increase will be allocated to the different service classifications and rates will be designed as described in Appendix E.

ii. **Demand Charges.** During the term of the Steam Rate Plan, Con Edison will gather billing data that will be utilized by the Signatory Parties to examine the potential future implementation of demand charges. The Company will install demand meters for approximately 180 of the SC 2 and SC 3 customers who use more than 14,000 Mlbs per year.

¹⁵ Absent the phase-in, the increase in the steam revenue requirement for RY1 would be \$62.6 million.

Prior to August 1, 2005, the Company will provide proposed SC 2 and SC 3 demand rates for review by the Active Parties before such rates are used for “dummy billing.”¹⁶ Dummy billing for these 180 customers will commence by October 1, 2005 and will reflect a billing demand equal to the peak usage during the month and a demand ratchet. The peak period will be 6 AM to 11 AM weekdays, November through April. The Company will use best efforts to provide demand data for the winter 2004-2005 period to customers who request such data and have demand meters installed by October 1, 2004. The Company will also use best efforts to provide dummy billing on the Company’s website in lieu of mailing dummy bills.

The Company will continue to install demand metering for all SC 2 and SC 3 customers who use more than 14,000 Mlbs per year and shall defer for later recovery any resulting metering-related costs not reflected in rates. The Company will include in its next steam rate filing an analysis of customer and Company impacts of extending demand charges to SC 2 and SC 3 customers who use less than 14,000 Mlbs per year.

If demand billing is addressed outside of the next steam rate case, it will be subject to Commission approval and it will be based on a theory of revenue neutrality on a class-by-class basis, where revenues before and after demand charges will be approximately the same when based on a weather-normalized annual period. If demand billing is addressed within the next steam rate case, the Company will identify in its filing all costs to be recovered through the demand charge.

¹⁶ In addition to the actual bill calculated under the rates in effect under the Steam Rate Plan (which is payable by the customer as usual), a “dummy bill”, or sample bill, will be provided to the customers calculated under proposed demand-based rates for informational purposes only.

iii. Other Rate Design Issues. The Company will retain the applicable terms of the SC 6 tariff and, at a minimum, continue the current discount level of the air-conditioning incentive program.

iv. Negotiated Steam Fuel Cost (Rider E)

a. A customer may negotiate fuel costs with the Company for a fixed volume of its requirements. For the fixed volume, the Company would charge the customer the agreed upon cost for fuel, including all other fuel related (e.g., storage and handling) and transaction costs, in lieu of the average cost of fuel. The customer would pay all rates and charges applicable under the customer's Service Classification exclusive of the monthly Fuel Adjustment Clause ("FAC"), but inclusive of the Special Monthly Adjustment component of the FAC and the difference between the agreed-upon cost and the base cost of fuel, which difference might be a credit or a debit.

b. Any steam usage in excess of the agreed-upon volume will be served under the rates and charges of the customer's Service Classification, inclusive of all components of the FAC. If the customer used less than the agreed upon volume of steam in any month, the customer will receive a credit for fuel associated with such lesser amount equal to the lower of the fuel cost incurred by the Company when the fuel was purchased or the market value of the unused fuel. The proportions of oil, gas and purchased steam to be applied in computing the credit and the market price indices to be applied for such sources will be determined by mutual agreement of the Company and the customer.

c. Customers taking service under Rider E will be permitted to aggregate their steam purchases both within a single customer having multiple steam accounts and among customers each having one or more steam accounts, provided there is a single

financial entity, acceptable to the Company, which is responsible for all applicable customer accounts.

v. Fuel Adjustment Clause. Variations between the actual cost of the fuel and the base cost of fuel will continue to be reconciled through the FAC. Steam fuel cost expenses and steam fuel cost revenues, including the base cost of fuel, the FAC, and the collection of fuel costs associated with variance/losses, will be trued-up for each annual period ending September 30. Reconciliations of refunds or charges to be credited or collected will be based on estimated sales over the subsequent 12-month period starting with the first billing cycle after November 1.

A portion of the fuel costs associated with line losses will be collected through a fixed charge, rather than a volumetric charge. Accordingly, a portion of the fuel costs equal to \$2.2 million in RY1 and an additional \$2.2 million in RY2 will be shifted from usage rates through the FAC to the customer charge. The fixed charge, which will be added to the customer charge, will be prorated for the number of days in the billing cycle, and will be implemented on a revenue and earnings-neutral basis.

The Company will recover through the FAC its total fuel costs associated with the actual steam system variance, to the extent such costs are not recovered in base rates, except as provided below. The steam system variance will be reconciled at the end of each Rate Year to reflect the actual system variance during such Rate Year, subject to the following targets. If the variance is greater than 4,541 MMlbs in any Rate Year, the Company will recover 90 percent of the variance-related fuel costs in excess of 4,541 MMlbs. The Company's exposure for unrecovered variance-related fuel costs will not exceed \$5 million in any Rate Year. To the extent that the variance is less than 4,322 MMlbs in any Rate Year, the Company will retain 10 percent of the variance-related fuel cost savings less than 4,322 MMlbs. In no event will the

Company retain more than \$5 million in any Rate Year. Fuel costs associated with the exceedance or savings relative to the target variance amounts will be computed by multiplying the differences from the target amounts (MMlbs) by the total cost of fuel for such Rate Year divided by the total sendout (MMlbs). The FAC will fully reflect any fuel costs or savings associated with the variance above 4,541 MMlbs or below 4,322 MMlbs that exceeds \$5 million in the Rate Year.

vi. State Income Taxes. Commencing October 1, 2004, State Income Taxes (“SIT”) for steam will be recovered through base rates, which will replace the current mechanism of recovering such tax expenses as a separate percentage increase in rates and charges. The increased revenue requirement includes \$4,674,000 of SIT (exclusive of gross receipts tax). In addition, there will be a decrease of \$1,473,000 (excluding gross receipts tax) related to the roll-in of the current level of SIT to base rates.

3. East River Repowering Project (“ERRP”).

i. When the ERRP begins commercial operation, the total capital cost of the project will be included in Steam Plant In Service consistent with the Commission’s Order Concerning Phase II Steam Plan Report, issued December 2, 1999, in Case No. 96-S-1065.

Capital and operating costs of the ERRP will be allocated between steam operations and electric operations as set forth in Appendix F. The respective electric and steam capital costs will be recovered through carrying charges consisting of return on capital costs, depreciation, and taxes. The steam carrying charge, as well as Operation and Maintenance expenses (“O&M”) and fuel costs allocated to steam operations, will be recovered through the FAC.

ii. Beginning with the first day of commercial operation of the ERRP, all net benefits of the ERRP allocable to steam, estimated by the Company at approximately \$36 million per year, will be reflected in the FAC. This shall be accomplished by crediting the FAC for the

steam costs that are no longer being incurred and are otherwise reflected in base steam rates and by adding to the FAC the costs of the ERRP allocated to steam (including the carrying charge, fuel costs and O&M costs).

iii. The total carrying charges on capital costs allocable to steam that may be recovered through the FAC, as described in sub-paragraph (i), during the term of the Steam Rate Plan shall be based on total capital costs (including AFUDC and capitalized property taxes) not to exceed \$685 million.

iv. The net benefits produced by ERRP prior to its commercial operation will be credited to the capital cost of the project in accordance with the Uniform System of Accounts.

v. Beginning January 2005, in any month that the ERRP has not begun commercial operation by the first day of such month, the Company will credit the FAC for that month with the Company's estimated net benefits for that month (i.e., the monthly benefits totaling about \$36 million per year). For the first month in which ERRP begins commercial operation, this credit will be prorated to reflect the number of days in the month prior to commencement of commercial operation.

vi. The Company will recover through the FAC the total of any credits provided pursuant to subparagraph (v) above for the months of January, February, and March 2005 over the following 18-month period, without interest, beginning April 2005 (i.e., the remainder of the Steam Rate Plan). The Company may petition the Commission for recovery of any such credits provided for any month(s) after March 2005 and any party may oppose the petition.

vii. In Opinion No. 00-15, the Commission stated that certain operating costs of the 74th Street and 59th Street Steam Stations, consisting of O&M costs and property taxes estimated to total \$23 million per year ("Transferred Costs"), should be ultimately transferred from

electric rates to steam rates. The rate impacts associated with the transfer, when combined with the rate impacts associated with this Steam Rate Plan would have a significant adverse cumulative impact on steam rates. The proceeds from the sale of the First Avenue Properties allocated to steam should be used, in part, to ameliorate this impact. Until the net benefits of steam's share of the proceeds are reflected in steam rates, the current rate treatment of these costs should continue (i.e., the Transferred Costs will continue to be recovered through the Market Supply Charge/Monthly Adjustment Clause (“MSC/MAC”) mechanism). Once the net benefits of steam's share of the proceeds are reflected in steam rates, recovery through the MSC/MAC mechanism should cease and any Transferred Costs should be included in steam base rates or recovered through the FAC. Prior to making any changes, Con Edison will make a filing with the Commission that sets forth the details for implementing this provision.

viii. The Signatory Parties recognize that the proposed fuel adjustment treatment of the net ERRP benefits and the Transferred Costs of the 74th Street and 59th Street Steam Stations, set forth in sub-paragraphs (i) and (vii) above, is intended to reflect the timing uncertainty in the commencement of commercial operation of the ERRP and the sale of the First Avenue Properties and allocation of net proceeds therefrom. Although the Signatory Parties recognize that these provisions are only effective for the term of this Proposal, they agree that the allocation of fuel, O&M and capital costs of ERRP set forth in Appendix F fairly distributes the cost of ERRP based on principles of cost causation and should continue beyond the term of the Steam Rate Plan. The allocation of capital costs for ERRP between electric and steam is anticipated, based on the current working estimate, to be two-thirds to electric and one-third to steam. Should the actual capital costs vary from the current working estimate or the Commission rule that any capital costs

were not prudently incurred, the allocation between electric and steam may be adjusted per the provisions of Appendix F.

D. Computation And Disposition Of Earnings.

Following each of RYs 1, 2 and 3 for Gas and RYs 1 and 2 for Steam, Con Edison will compute its gas and steam rates of return on common equity capital for the preceding Rate Year. The Company will provide to Staff the computations of earnings no later than 60 days after the end of each Rate Year.

If the level of earned common equity return in any Rate Year exceeds 11.75 percent (“Earnings Sharing Threshold”), calculated as set forth below and as may be adjusted pursuant to paragraph E.8, the amount in excess of 11.75 percent shall be deemed “shared earnings” for the purposes of this Proposal, and one-half of the revenue equivalent of any shared earnings will be deferred for the benefit of customers and the remaining one-half of the revenue equivalent of any shared earnings will be retained by the Company.

For purposes of determining whether the Company has earnings above the Earnings Sharing Threshold:

i. The calculation of return on common equity capital will be computed from the Company’s books of account for each Rate Year, excluding the effects of (i) Company incentives and penalties for gas (e.g., paragraph G), (ii) the adjustment mechanisms for lost and unaccounted for gas (paragraph B.4) and the steam variance (paragraph C.2), (iii) the Company’s share of Non-Firm Revenues in excess of the \$35 million imputation (paragraph B.3), and (iv) any other Commission-approved ratemaking incentives allocated to the Company after the date of this Proposal;

ii. Such earnings computations will reflect the lesser of (i) an equity ratio equal to 50.0 percent or (ii) Con Edison's actual average common equity ratio to the extent that it is less than 50.0 percent of its rate making capital structure; and

iii. For purposes of calculating earnings for steam, the net revenue effect of steam sales related to colder-than-normal weather shall be excluded in the manner provided in the 2000 Steam Rate Plan and more fully described in Appendix G.

E. Reconciliations.

The Company will reconcile the following costs to the levels provided in rates (as set forth in Appendices H and I). Except as provided in paragraph E.1, the reconciliations of RY1 and RY2 for steam service and RY1, RY2, and RY3 for gas service will be deferred and recovered from customers or credited to customers after expiration of the Steam and Gas Rate Plans, respectively, in a manner to be determined by the Commission.

1. **Property Taxes.** If the level of actual expenditures for property taxes (excluding the effect of property tax refunds or credits) varies in any Rate Year by more than 2.5% (plus or minus) from the levels provided in rates, which are set forth in Appendix H, any variations in excess of 2.5% will be deferred and recovered from or credited to customers in the manner described above. However, if the deferred amounts after RY2 for gas service exceed \$10 million, the Company will recover the amount above \$10 million during RY3 through the Monthly Rate Adjustment ("MRA").

2. **Interference (Other Than Company Labor).** If the level of actual non-Company labor interference expenses (e.g., contractors' costs) varies in any Rate Year by more than 2.5% (plus or minus) from the levels provided in rates, which are set forth in Appendix H, any variations in excess of 2.5% will be deferred and recovered from or credited to customers in the

manner described above. Con Edison will continue to coordinate and plan its interference work with the affected municipalities in order to reduce costs for customers.

3. **Plant Additions.** If at the end of any Rate Year, average net plant is less than the amount set forth in Appendix I (“Capital Target”), the Company will defer the revenue requirement impact of any shortfall below the targeted levels and such deferred amount will be credited to customers in the manner described above.¹⁷ The targeted levels are the dollar amounts stated on Appendix I and are not related to any specific projects. The revenue requirement will be calculated by applying an annual carrying charge factor of 13.7% for gas and 13.4% for steam (representing a combination of rate of return and depreciation) to the portion of the shortfall.

For any new capital project for gas that is greater than 5% (\$9 million) of the capital expenditures targeted for RY2 and RY3, or for steam that is greater than 5% (\$2 million) of the capital expenditures targeted for RY2, the Company may petition the Commission to defer the carrying charges associated with these new capital project(s) for recovery in a manner to be determined by the Commission.

4. **Pensions/OPEBs.** The Company will implement the Pension Policy Statement for gas and steam operations, effective October 1, 2004. The provisions of the Pension Policy Statement include, but are not limited to, the provision to reconcile actual pension/OPEB expenses to the level allowed in rates as set forth in Appendix H.

The Company agrees that, as a condition for being permitted to implement the provisions of the Pension Policy Statement, it will not, during the term of these Rate Plans or thereafter,

¹⁷ The targeted levels are 97.5 percent of the projected average net plant in service balances reflected in the revenue requirements in Appendix A.

without Staff's prior concurrence, seek to deviate from the Pension Policy Statement for gas and steam operations.

The gas and steam pension/OPEB expense or credit recorded prior to October 1, 2004 will not be eliminated from the Company's earnings base or capitalization for ratemaking purposes.

5. **Environmental Remediation.** If the level of actual expenditures for site investigation and remediation ("SIR"),¹⁸ including expenditures associated with former manufactured gas plant ("MGP") sites, Superfund and 1994 DEC Consent Order Appendix B charges, allocated to gas and steam operations varies in any Rate Year from the levels provided in rates, which are set forth in Appendix H, such variation will be deferred and recovered from or credited to customers after expiration of the Gas and Steam Rate Plans, respectively. The deferred balances subject to interest will be reduced by accruals, insurance recoveries, associated reserves and deferred taxes.

6. **Pipeline Integrity Costs – New York Facilities Charges.** The New York Facilities Agreement is a joint operating agreement among Con Edison and the KeySpan Delivery Companies ("KeySpan"), which provides for sharing of certain costs. Among the costs to be shared are the costs that the companies incur to comply with new federal requirements that require gas companies, like Con Edison and KeySpan, to develop and implement an integrity management program for their affected gas facilities using in-line inspection, hydro or pressure testing, or direct assessment.

¹⁸ SIR costs are the costs Con Edison incurs to investigate, remediate or pay damages (including natural resource damages, with respect to industrial and hazardous waste or contamination spills, discharges, and emissions) for which Con Edison is deemed responsible. SIR costs are net of insurance reimbursement (if any); provided, however, that nothing herein will require the Company to initiate or pursue litigation for purposes of obtaining insurance reimbursement.

The Company's projected share of KeySpan's pipeline integrity costs are reflected in the gas rates for RYs 1, 2 and 3, as an estimated annual amount of \$1 million. The Company will defer the difference in any Rate Year between the \$1 million rate allowance to actual payments made to KeySpan for pipeline integrity programs and such amounts will be recovered from or credited to gas customers in the manner described above.

7. **Additional Reconciliation/Deferral Provisions.** In addition to the foregoing reconciliation provisions for property taxes, interference (other than Company labor), capital expenditures, pensions/OPEBs, environmental remediation, and pipeline integrity costs (New York Facilities Agreement charges from KeySpan), all other applicable existing reconciliations and/or deferral accounting will continue in effect through the terms of the Gas and Steam Rate Plans, respectively, and thereafter until modified or discontinued by the Commission, including but not limited to FAS 109 taxes, MTA taxes, the FAC, GCF, and MRA mechanisms.

The treatment of deferred WTC capital costs allocated to gas and steam operations will be in accordance with the Commission's determination in Case 01-M-1958 and subject to interest at Con Edison's allowed pretax AFUDC rate of return. The Company will continue to seek recovery for all WTC costs from governmental agencies and insurance carriers. All recoveries will be applied to reduce the deferred balance.

8. **Limitations on Deferrals.** When calculating the level of earned common equity return for gas and steam that may be subject to sharing under section D of this Proposal, the Company will make the following adjustments if its earnings exceed an 11.75% return on equity:

i. For earnings above 11.75% but less than or equal to 15.0%, the Company will reduce expenses (debits) deferred for later recovery pursuant to this Proposal, up to 50% of

the deferral; provided, however, that such reduction in deferrals will not cause the resulting earnings to decrease below an 11.75% return on equity; and

ii. For earnings above 15.0%, the Company will reduce expenses (debits) deferred for later recovery pursuant to this Proposal, up to 100% of the deferral; provided, however, that such reduction in deferrals will not cause the resulting earnings to decrease below a 15.0% return on equity;

provided, however, that deferrals for the GCF and MRA, FAC, deferred taxes and surcharges (i.e., MTA Taxes), gas lost and unaccounted for and steam variance incentives and revenue adjustments, WTC expenditures, losses on property sales, gas efficiency program costs, and gas migration incentives, will be excluded from the deferral limitation outlined above.

F. Additional Rate Provisions Common To Gas And Steam Rates.

1. **Depreciation Rates and Reserves.** For gas plant, the average service lives, net salvage factors and life tables used in establishing the gas revenue requirement reflect the depreciation parameters proposed by the Company in its November 21, 2003 filing. Amortization of interruptible gas plant will be as set forth in section C of Appendix C.

For steam plant other than ERRP, the revenue requirement reflects the average service lives, net salvage factors and life tables proposed by Staff, which results in a calculated reserve deficiency below 10%, thereby eliminating the need to amortize the existing reserve deficiency as proposed by the Company. For ERRP, the project investment will be depreciated using the parameters proposed by the Company.

The Company will prepare and file with the Commission, by June 30, 2005, new depreciation studies that evaluate the impact of the Company's gas and steam infrastructure improvement/replacement programs as well as the obsolescence of equipment. The rates for gas and steam during the Gas and Steam Rate Plans, respectively, will not be changed to reflect the

results of the studies. The results of the studies, however, once agreed to by the Signatory Parties, may be reflected in the Company's next rate filings for its gas and steam systems, respectively.

2. **NYS Corporate Business Tax (SIT).** As discussed herein, the existing SIT surcharge mechanism will continue in effect to refund the remaining amount of the 2003 SIT reconciliation and shall remain in effect as necessary to permit the reconciliation of SIT for January through September 2004. The Company will amend its tariffs to (i) remove the provision for recovery of current SIT from the surcharge mechanism, and (ii) to continue the surcharge mechanism for reconciliation purposes only.

3. **Interest on Deferred Costs.** The Company is required to record on its books and records of accounts various credits and debits that are ultimately reflected in the rates to be charged to customers (See, e.g., paragraphs E1-E3, E5 and E6). Unless otherwise specified in this Proposal or by Commission order, the Company will accrue interest on these book amounts net of federal and State income taxes at the unadjusted customer deposit rate of interest published by the Commission annually. FAS 109 and MTA Tax deferrals are either offset by other Balance Sheet Items or reflected in the Company's rate base and will not be subject to interest. Interest for deferred purchased gas costs, pipeline refunds, and deferred Non-Firm Revenues will be applied in conformance with the gas tariff.

4. **Allocation of Common Expenses/Plant.** During the terms of the Gas and Steam Rate Plans, common expenses and common plant will be allocated according to the percentages reflected in the gas and steam revenue requirement calculations, respectively. Should the Commission approve different common allocation percentages prior to the next base rate case for either or both services, the resulting change in revenue requirement will be deferred on an annual basis for future recovery from or credit to customers.

5. **Property Taxes Refunds and Credits.** Property tax refunds not reflected in the respective Rate Plans and resulting from the Company's efforts, including credits against tax payments (intended to return or offset past overcharges or payments determined by the taxing authority to have been in excess of the property tax liability appropriate for Con Edison), will be deferred for future disposition except for an amount equal to fourteen percent of the refund or credit which will be retained by the Company. Incremental expenses incurred by the Company to achieve the property tax refunds or credits will be netted against the refund or credit before any deferral of the proceeds is calculated. The fourteen percent retention level will apply to all gas and steam property tax refunds and/or credits against tax payments that are received during the terms of the respective Rate Plans. The Company will continue to provide Staff an annual showing of its efforts to reduce its property tax obligations.

G. Gas-Only Items

1. Retail Access Program

i. Purchase of Accounts Receivable

During the term of the Gas Rate Plan, the Company will offer a Purchase of Receivables Program (POR Program) to Energy Service Companies/marketers (ESCOs) who are authorized to provide gas commodity service in its territory.¹⁹ Under this program, the Company will purchase gas commodity service accounts receivable, at a discount and without recourse, on the accounts of the Company's firm transportation customers who receive a consolidated bill from the Company that includes gas commodity service provided by the ESCOs. The Company may petition the

¹⁹ The Company estimates that it will be able to implement the POR program during the first six months of the Gas Rate Plan. Any ESCO that is a Signatory Party to this Proposal hereby agrees that it will not request the Company to suspend service to any of its customers prior to the Company's implementation of the POR program; disconnection of delivery service and termination of commodity service thereafter will be in accordance with subparagraph b. below.

Commission to discontinue the POR Program for any reason at the end of the Gas Rate Plan. The POR Program is premised on implementation in accordance with the following provisions.

a. Discount Rate

Con Edison will negotiate with ESCOs the discount rate to be applied to the ESCOs' accounts receivable. The discount rate shall be compensatory, to the extent practicable, so that it compensates the Company for its financial risk involved in purchasing ESCO gas or both electric and gas receivables, including, but not limited to, the level of the Company's uncollectibles, the cost of money associated with the billing and subsequent cash collection from the ESCO customers, and the cost of implementing and administering the program. The discount rate applicable to receivables purchased from the commencement of the POR Program through calendar year 2005 will be no less than 1-1/4 percent and no greater than 2 percent. The discount rate applicable to receivables purchased during calendar year 2006 will be adjusted to reflect (1) the percentage change in the Company's actual uncollectibles experience, including uncollectibles attributable to ESCO customers, in the prior 12-month period and (2) any additional incremental costs beyond those included in the initial discount rate associated with POR incurred by the Company. The discount rate applicable to receivables purchased from January 1 through September 30, 2007, shall be set in the same manner as the 2006 discount rate.

Sixty days before the effective date of the initial discount rate and any subsequent discount rate, the Company will notify all Active Parties in Case 03-G-1671 of the opportunity to receive information about the discount rate and will provide such information to interested Active Parties and to all ESCOs authorized to serve gas customers in Con Edison's service territory. ESCOs reserve the right to dispute the proposed discount rate. With respect to the initial discount rate, an ESCO may invoke mediation under the Commission's Office of Hearings and Alternative Dispute Resolution if the ESCO believes that the Company has not established the initial discount rate

reasonably in accordance with the foregoing criteria applicable to the initial discount. With respect to any subsequent discount, an ESCO may invoke such mediation with respect to any increase in the discount rate (but not with respect to the underlying discount rate) if the ESCO believes that the Company has not established the increase reasonably in accordance with the foregoing criteria applicable to adjustments to the discount rate. The POR Program exempts the Company from pro-ration of partial customer payments.

b. Disconnection of Service

Con Edison, in accordance with applicable provisions of law, may disconnect its delivery service and the ESCO's commodity service to residential customers who fail to make full payment of all amounts due on the consolidated billing, including the amount of the purchased ESCO receivables. Residential customers disconnected from utility service under the POR Program shall be reconnected to service upon the payment of the arrears that were the subject of the disconnection, which may include both delivery and supply charges, or a lesser amount as specified in Public Service Law §32(5)(d).

Con Edison is also authorized to disconnect its delivery service and the ESCO commodity service, in accordance with 16 NYCRR Part 13, to non-residential customers where: (i) the customer fails to make full payment of all amounts due on the consolidated billing; (ii) the Company purchased the ESCO receivable; and (iii) the ESCO furnishes the Company an affidavit from an officer of the ESCO representing to the Company that the ESCO has notified its current non-residential customers and will notify its future non-residential customers that Con Edison is permitted to disconnect the customer for non-payment of the ESCO charges. The ESCO will indemnify the Company for any cost, expense, or penalty if the customer's service is discontinued for non-payment and the customer establishes that it did not receive such notification.

c. Charge Back

Where Con Edison reconnects service to a residential customer in accordance with Public Service Law §32(5)(d), the Company is permitted to charge back to the ESCO the difference between the purchase amount and the amount the residential customer would have been charged as a full service customer. Charge back may be accomplished by netting out the amounts owed the Company by the ESCO from the payments otherwise due the ESCO from the Company.

d. Billing Options

Con Edison is not required to offer additional utility consolidated billing options to any ESCO providing either gas or both electric and gas commodity service apart from the consolidated billing option available for the POR Program. ESCOs electing not to participate in the Company's POR Program are required to provide their own bill to residential customers under the procedures applicable to the dual billing model; ESCOs may continue to offer an ESCO consolidated bill only to their non-residential customers in accordance with Con Edison's existing ESCO consolidated bill program using Con Edison's current data exchange system. The Company may seek waivers of the Uniform Business Practices as they relate to consolidated billing options if necessary to implement and/or administer the POR Program, including limiting consolidated billing options to those described above, and the Signatory Parties agree to stay silent on or support such Company requests.

ii. Retail Marketing Program

Within 30 days of execution of this Proposal, Con Edison will provide to Active Parties in Case 03-G-1671 its outline for a Retail Marketing Program (Marketing Program) and convene a meeting to confer with interested Active Parties regarding its design of the Marketing Program. Under the Marketing Program, willing ESCOs participating in a consolidated billing service from

the Company will offer firm residential and small non-residential customers who enroll with the ESCO a 7 percent discount from Con Edison's current month Gas Supply Charge for a two-billing cycle introductory period,²⁰ provided that each gas account will receive only one discount over the term of the Gas Rate Plan. The Marketing Program will include the following:

- a. A procedure for customer enrollments reasonably designed to provide each ESCO a generally equivalent number of accounts by service type (gas only or electric and gas combination service), rate classification, and location. Customers enrolling through this program are not permitted to select a specific ESCO;
- b. Con Edison will obtain customer authorization, process enrollments and provide customer information to the assigned ESCO;
- c. Calculation by Con Edison of the price to be charged customers enrolled under the Program on the two bills issued during the two-billing cycle introductory period;
- d. A requirement that participating ESCOs provide enrolled customers with the terms and conditions, including price, for serving those customers beyond the two billing cycle introductory period;
- e. ESCOs will not penalize a customer who returns to utility service following the two billing cycle introductory period; and
- f. A requirement that ESCOs indemnify the Company against any damages, penalties or other costs associated with or arising from a claim that the ESCO misrepresented the terms of the ESCO service that was initiated through the Marketing Program.

²⁰ The Company may, after consultation with Staff and with consensus among ESCOs authorized to provide service in the Company's service territory, adjust the 7% discount prospectively for the purpose of maximizing both ESCO and customer participation in the Marketing Program.

To promote the Marketing Program, Con Edison will use a marketing approach that includes but is not limited to the use of customer bill inserts, print advertisements, and call center contacts. The Company may use promotional funds authorized in Section 4 for these purposes.

iii. Migration Incentives

In order to encourage Con Edison to promote retail access in its service territory, the Company will receive at the end of each Incentive Period (defined below) a gas migration incentive for residential heating and non-residential gas accounts taking firm service that migrate to firm transportation service.²¹ The incentive will be calculated in accordance with the following methodology:

a. During the Gas Rate Plan, a minimum of 7,500 eligible gas accounts must commence taking gas service from ESCOs before a migration incentive can be awarded;

b. For customers migrating during the first 15 months of the Gas Rate Plan ending December 31, 2005 (the First Incentive Period), the Company will receive an incentive for each migrating customer, subject to subparagraphs (a) and (e). The incentive will be \$40 for each of the first 10,000 migrating customers (including the minimum 7,500 customers to be eligible for the incentive) and \$50 for each migrating customer thereafter, and the Company can only receive a migration incentive once on each eligible gas account.

c. For customers migrating during the following 21 months of the Gas Rate Plan, beginning January 1, 2006, (the Second Incentive Period), and one-year periods ending on September 30 thereafter until the Company's gas rates are reset, the Company will receive an incentive of \$10 per migrating customer, subject to subparagraph (e), and a retention incentive

²¹ For the purposes of migration incentives, migrating customers include new customers that commence taking firm transportation service.

calculated as set forth in subparagraph (d), provided that the Company can only receive a total (migration plus retention) incentive once on each eligible gas account.

d. The Company will determine the net increase in customers on firm transportation service at the end of the Second Incentive Period and subsequent one-year periods thereafter over the number of customers who were taking firm transportation service as of the beginning of that period, counting units in multiple dwellings as provided in subparagraph (e). If the Company meets the 10,000-customer migration threshold during the First Incentive Period, the retention incentive will be the net increase in firm transportation customers times \$40; if fewer than 10,000 customers migrate during the First Incentive Period but additional customers migrate during the Second Incentive Period, the retention incentive will be the net increase for additional migration up to 10,000 customers times \$30 plus any balance of the net increase times \$40. Customers who resume taking firm sales service from Con Edison during the Second Incentive Period and subsequent one-year periods due to an ESCO's cessation of retail marketing operations in or departure from Con Edison's service territory will not be considered in the netting calculation, but are subject to the limitation in subparagraph (c) (i.e., such customers will be considered to have remained with the ESCO for purposes of calculating the retention incentive)".

e. For residential multi-dwelling gas accounts, the Company may receive the following migration incentives, subject to the netting in subparagraph (d):

<u>No. of Units</u>	<u>Equivalent no. of migrated customers</u>
1-10	1
11-30	2
31-50	3
51-100	4
> 100	5

f. The incentive (migration and retention) that the Company may receive over the period these provisions remain in effect will be capped at \$ 8.5 million; and

g. The migration incentive will be recoverable following the end of each Incentive Period by reducing the credits or revenue otherwise due firm customers as used to fund the Competitive Retail Choice Credit (“CRCC”); if there are insufficient funds to recover the entire incentive due for any period, the Company may recover the balance by means of a surcharge to the MRA. Within 30 days following the end of each Incentive Period, Con Edison will file with the Commission verification of migration during that period, the computation of any requested incentive, the available credits, and the proposed surcharge, if any. Any surcharge permitted by this provision will be effective 60 days following the end of the period.

iv. Retail Choice Promotion

Con Edison is authorized to spend up to \$3 million for the term of the Gas Rate Plan on promotion of gas retail choice in its service territory (the Retail Choice Promotion program or RCP program).

a. Timing

Within 30 days of execution of this Proposal, Con Edison will provide to Active Parties in Case 03-G-1671 and ESCOs authorized to serve gas customers in its service territory the Company’s outline for an RCP Program, including a workplan for the Market Match and Market Expo Programs, and an outline for the Company’s Outreach and Education Activities. The Company will convene, within the same time frame, a meeting to confer with interested Active Parties regarding events planned for the RCP Program. The outline will include information about program elements and relative levels of proposed expenditure.

b. RCP Activities

The RCP program will focus on the promotion of retail access and will include promotional advertisement, ESCO meetings, and public events. The RCP program fund shall also support a Market Expo and Market Match program (discussed below), and the Retail Program.

Acceptable forms of promotional advertisement will include advertising, direct mailings, internet applications and bill inserts.

c. Use of Funds

During the Gas Rate Plan period, Con Edison will use approximately \$1 million annually for the RCP program but may modify the annual budget as long as the three-year total does not exceed \$3 million.

v. Market Match and Market Expo Programs

Con Edison will develop, as a means of facilitating the development of the competitive gas market, a Market Match and Market Expo Program in order to provide opportunities for ESCOs and Con Edison's non-residential customers with consumption of at least 2500 Dth/year to exchange information. Con Edison may reduce the threshold criteria for customer participation in these programs. The Market Match Program will include:

a. A capability on Con Edison's Web site providing a mechanism for customers interested in obtaining competitive price offers from ESCOs to provide on-line authorization to the ESCO enabling the ESCO to obtain their usage data.

b. Notification of the Market Match Program by direct letter to all customers with consumption of at least 2500 Dth/yr.

c. ESCOs' use of the customer account number to access customer usage information through EDI.

d. ESCO execution of a confidentiality agreement promising not to release or use the customer information for any purpose other than the Market Match Program.

Con Edison will conduct a minimum of four Market Expos (Expo) over the term of the Gas Rate Plan. Two of the Market Expos will be conducted within 12 months of the approval of this Proposal. The purpose of the Market Expo Program is to bring ESCOs, large non-residential customers and Con Edison together to provide a forum for an exchange of information regarding retail choice and a platform for customers to receive offers from ESCOs. Market Expos will include:

a. An invitation and application for participation in the Expo will be provided to all customers with an annual consumption of at least 2500 Dth, subject to the Company's option to lower the threshold;

b. A presentation on the status of the gas markets in the Northeast along with an explanation of Con Edison's retail access rules;

c. An opportunity for customers to meet with specific ESCOs; and

d. An opportunity for customers to discuss retail access-related concerns, if any, with Con Edison.

vi. ESCO Satisfaction Survey

Con Edison will continue to conduct the annual ESCO survey. Con Edison will consult with Staff and ESCOs operating in its service territory to determine if any changes need to be made in the existing survey. The Company should strive to maintain 100% ESCO participation in the survey. Con Edison will report the results of the survey and its plans for addressing marketer concerns, if any, identified by the survey in the July 31 Retail Access Report described in paragraph (xi).

vii. ESCO/Marketer Ombudsman

Within 30 days after the Commission's approval of this Proposal, Con Edison will formally announce the designation of a management employee who will be responsible for addressing ESCO concerns and issues and who will serve as a liaison between ESCOs and the Company. ESCOs will be provided with the Ombudsman's name and telephone number and the Ombudsman will be available directly to ESCOs.

viii. Competition Awareness and Understanding Survey

Con Edison will continue to survey its residential customers annually for the purpose of tracking changes in customer awareness and understanding of competition in the gas market. The Company will report the results of the survey in the July 31 Retail Access Report described in paragraph (xi).

ix. Competition Outreach and Education

Con Edison will continue to conduct outreach and education to increase customer awareness and understanding of residential and non-residential competitive choice and the Company's "Power Your Way" Program. Acceptable forms of Outreach and Education will include market research (approximately \$175,000 per year), public information campaign (approximately \$685,000 per year), customer contact (approximately \$300,000 per year), and administrative costs (approximately \$100,000 per year). The estimated annual total cost of the Company's outreach and education effort is \$1.26 million for each Rate Year of the term of this Proposal. Individual elements of the budget may be adjusted by the Company. The Company will notify Staff of any adjustment that is expected to exceed 20 percent.

All retail access promotion material and messages, including "Power Your Way" materials and messages, will clearly identify Con Edison's affiliation with the "Power Your Way" program.

x. Bill Format

Within 30 days after the Commission's approval of this Proposal, Con Edison will meet with Staff and ESCOs operating in its service territory to discuss the Company's current bundled bill format and possible formatting changes consistent with the outcome of Case 00-M-0504. Until the Commission orders a different bill format to be implemented in Case 00-M-0504 concerning bill format and such format is implemented, the Company agrees to provide a bill message on firm sales customers' bills identifying the charges associated with the supply of gas commodity for the billing period.

xi. Retail Access Report

Con Edison will file, with copies to all active parties to Case 03-G-1671, on January 31 and July 31 of each Rate Year, a report that includes the following:

a. Retail Choice Promotion Overview (retail marketing program,

promotional advertising, market match, and market expo)

- activities and expenditures for the prior six months
- planned activities and expenditures for the subsequent six months or longer, as appropriate

b. Competition Outreach and Education

- activities and expenditures for the prior six months
- planned activities and expenditures for the subsequent six months or longer, as appropriate
- Customer Awareness and Understanding Survey results
- ESCO Satisfaction Survey results and the Company's plans for addressing improvement opportunities identified by the survey

c. Migration Data

- total number of customers migrated, including customers who have migrated from ESCO to ESCO and who have resumed taking firm sales service from the Company after previously migrating to ESCOs

- migration data associated with the retail marketing program
- details on the calculation of the incentive, as known

For the purposes of subparagraphs (a) and (b), for the reports due January 31 each year, the prior six months means the period July 1 through December 31 and the subsequent six months means the period January 1 through June 30; for the report due July 31 each year, the prior six months means the period January 1 through June 30 and the subsequent six months means the period July 1 through December 31. Further, with respect to the foregoing reports, the Company will provide to Staff, pursuant to the Commission's trade secret regulations, commercially sensitive migration data and a confidential report of the raw data obtained during the survey processes, including the names of the participating gas marketers but without attribution of the raw data to individual marketers, and excluding the names of participating customers, and to the Signatory Parties, high-level summaries of the feedback received from marketers and customers during the survey processes, the Company's plans to address concerns, if any, identified by the marketers during the survey process, and non-commercially-sensitive migration data.

2. Competitive Retail Choice Credits

The Signatory Parties agree that implementation of the POR Program and the Retail Program is premised upon the continuation of the CRCC mechanism described herein.

The 24.0 cents per Dth CRCC applicable to bills of the Company's SC 9 firm transportation customers, which is based on various considerations including avoided uncollectibles on gas supply costs and scheduled to expire on October 1, 2004, will continue for the term of the Gas Rate Plan. The current \$0.65 per bill credit applicable to SC 9 firm transportation customers receiving consolidated bills from marketers will also continue for the Gas Rate Plan. The Company will also continue to use 1.2 cents per dekatherm in lieu of determining net, verifiable incremental avoided costs of any and all kinds associated with providing firm

transportation services (“Avoided Charge Surrogate”) for existing levels of migrated load. The Avoided Charge Surrogate for load migrating during the period these provisions remain in effect will be 1.2 cents plus the equivalent value of the POR discount adjusted to exclude incremental costs included therein.

The Company shall be kept whole for: (1) net aggregate CRCCs applied on customers bills, 24.0 cents per Dth less the applicable Avoided Cost Surrogate; and (2) the \$0.65 per bill for a consolidated bill credit provided to firm transportation customers when the ESCO is providing the consolidated bill, first by reducing the following credits or revenues otherwise due customers: (a) interstate pipeline refunds deferred as of September 30, 2004 that were not used to provide for net aggregate CRCCs for the period prior to October 1, 2004; (b) interstate pipeline refunds received during the term of the Gas Rate Plan; and (c) customer charges deferred as of September 30, 2004 and charges collected from customers during the term of the Gas Rate Plan related to customers’ failure to comply with the terms and conditions of the Company’s interruptible, off-peak firm and power generation services. If the funding sources outlined above are not sufficient to fully fund net CRCCs and consolidated billing credits, any such amounts will be recovered via a surcharge to the MRA applicable to firm sales and firm transportation customers.

The Company will continue to participate in the Commission’s Unbundling Phase of the Competitive Markets Proceeding, Case No. 00-M-0504, according to the procedural schedule. If a decision in the Unbundling Phase is issued prior to or during the term of the Gas Rate Plan, the effective date for implementing the Commission’s unbundling decision will be no earlier than October 1, 2007.

3. Marketer Assignment Proposal and Gas Balancing

The Company will make changes to its gas tariff and gas Sales and Transportation Operating Procedures (“GTOP”), as more fully set forth in Appendix J, to implement a new gas marketer assignment program, and amend provisions relating to cash-outs/imbances and operational flow orders.

The Company will also pursue the development of a mechanism for the automatic netting of imbalances, also as more fully described in Appendix J.

4. Gas Energy Efficiency Program

A gas energy efficiency program in Con Edison’s service territory (“the Efficiency Program”) and a gas energy efficiency study (“the Study”) will be implemented during the term of the Gas Rate Plan in accordance with the parameters discussed below.

i. Advisory Group. Upon Commission approval of this Proposal, Staff will forthwith convene an advisory group to review and make recommendations concerning the conduct of the Efficiency Program and scope of the Study. The advisory group will include Staff, Con Edison, New York City, Westchester County, and representatives of environmental groups and low-income and other customer classes. An invitation for membership and participation in the advisory group will also be extended to the New York State Energy Research and Development Authority (“NYSERDA”). In no event will the advisory group be larger than 12 members; if more than 12 parties seek to join the advisory group, parties with common interests will meet amongst themselves and appoint an appropriate number of representatives.

ii. Program Administration. The Signatory Parties agree to first offer administration of the Efficiency Program to NYSERDA. In the event that NYSERDA declines the offer to administer the Efficiency Program, Con Edison agrees to administer it. The Program

Administrator will design, in consultation with the advisory group, specific gas energy efficiency programs consistent with the provisions in this Proposal. The Program Administrator will submit proposals for gas energy efficiency programs to the Commission for approval. The filing for each program shall include, at a minimum, program details and recommendations for implementation, estimates of administrative and implementation costs, gas savings (in therms), customer bill savings, environmental and societal benefits, and estimates of lost revenues that may be incurred by the Company as a result of the program. The first of these program filings will be submitted to the Commission within three months of its approval of this Proposal. The Signatory Parties reserve their rights to support, oppose, or seek to modify any such filing except with respect to issues resolved by this Proposal.

iii. Funding. The Efficiency Program will be funded at an amount of \$5 million until gas rates are reset by the Commission, and the Study will be funded at an amount of \$200,000. The Program Administrator will have the flexibility to frontload the funding if doing so is determined by the Administrator, after consultation with the advisory group, to be the most beneficial manner of promoting gas efficiency. Funding levels for this program may be increased, if approved by the Commission, based on the findings of the gas energy efficiency study, discussed below, the recommendations of the Program Administrator and any other comments filed by the Signatory Parties.

The \$5 million funding established for the gas energy efficiency program will only be used for new gas energy efficiency programs or to supplement and expand any existing gas efficiency programs and shall not be used as a substitute for, or to replace, any existing gas efficiency funding under the System Benefit Charge (SBC) program. The funding shall cover, at a minimum, administrative and program costs as well as lost revenue recovery and will be recovered from all

firm customers through the MRA applicable to SC 1, 2, 3 and SC 13 customers and corresponding SC 9 firm transportation customers over a twelve month period. The allocation of funding for the gas energy efficiency program will be approximately as follows: 50% on low-income gas efficiency programs (including low-income weatherization and programs for owners of multi-family housing with low-income tenants); 25% on other residential gas efficiency programs, including single family and multi-family buildings; and 25% on commercial gas efficiency programs.

Funding for the Study will be recovered from all firm customers through the MRA applicable to SC 1, 2, 3 and 13 customers and corresponding SC 9 firm transportation customers over a 12-month period. The Signatory Parties agree to contact NYSERDA to ascertain the possibility of obtaining matching funds for the Study.

If the Commission adopts an SBC for gas customers then all funding associated with this program will be modified accordingly. The existing gas energy efficiency programs under operation at that time should be continued and funded under a gas SBC program.

iv. The Study. A comprehensive study of the potential to achieve cost-effective gas efficiency savings for Con Edison's service territory will be commissioned by the Program Administrator. An independent consulting firm shall be selected, pursuant to a request for proposals ("RFP"), to undertake the Study. The Program Administrator, in consultation with the advisory group, will issue the RFP as soon as practicable, but in no event later than 120 days after Commission approval of this Proposal. The winning bidder will be required to complete the Study within six months of the RFP award.

The Study will include an examination of all of the following: gas price reduction benefits; gas usage and bill reduction benefits; environmental and other societal benefits; potential program

designs; implementation recommendations; lost revenue recovery mechanism recommendations; an evaluation and quantification of the proposed program costs; and a comparison of the costs and benefits of each proposed program.

v. Filing Requirements. The Program Administrator and the advisory group will work to resolve issues related to: expenditures for the payment of the Study, the Efficiency Program and associated lost revenues; and the methodology for calculating lost revenues. The Program Administrator will work to achieve consensus with the advisory group, but will make final recommendations to the Commission on its own. The Signatory Parties reserve their rights to support, oppose, or seek to modify any such recommendations.

Additionally, the Program Administrator will file an annual report with the Commission, within 60 days after the end of each rate year. The report will include, for each gas energy efficiency program, the following information: the number of participating customers; gas savings; bill savings; environmental and societal benefits; a comparison of the costs and benefits; the amount and percentage of discounts and/or incentives provided; and the amount expended for the Rate Year and the total amount expended to date. The advisory group will review the status of the gas energy efficiency programs at least annually.

Upon the completion of the Study and consultation with the advisory group, the Program Administrator will promptly submit the Study, together with its recommendations with respect to the Efficiency Program set forth in this Proposal, to the Commission for consideration. The Signatory Parties reserve their rights to support, oppose, or seek to modify any such recommendations.

5. Customer Satisfaction. A customer satisfaction incentive, calculated annually, will continue for the term of the Gas Rate Plan and thereafter. Levels of customers' satisfaction

will be determined by surveys performed semi-annually by an outside vendor selected by the Company. The surveys will be designed to measure customers' satisfaction with the handling of calls to the Emergency Response Center relating to gas service. Should the average of the two system-wide satisfaction survey indices for any Rate Year fall below 88.1%, Con Edison will provide a credit to customers, as directed by the Commission. The gross amount of the credit will be calculated proportionately from zero at a satisfaction level of 88.1% or above, up to a maximum of \$3.3 million at a satisfaction level of 87.5% or below. System-wide emergencies will not be included in surveys conducted under this provision.

Con Edison will submit reports on its performance of the customer satisfaction surveys twice a year following performance of each survey.

6. Safety Performance

i. Leak Management - Year-End Total Backlog: If the year-end total leak backlog (types 1, 2, 2A and 3) exceeds 1,800 for calendar years 2005, 2006 and/or 2007, the following negative rate adjustment will be applied to the benefit of firm customers, as directed by the Commission:

1,800 or less	No adjustment
1,801 to 1,900	\$250,000
1,901 to 2,000	\$375,000
Above 2,000	\$500,000

ii. Leak Management – Year-End Workable Backlog: If the year-end workable leak backlog (types 1, 2 and 2A) exceeds 100 for calendar years 2005, 2006 and/or 2007, the following negative rate adjustment will be applied to the benefit of firm customers, as directed by the Commission:

100 or less	No adjustment
101 to 110	\$250,000
111 to 130	\$375,000
More than 130	\$500,000

iii. Leak Response - 30-Minute Response Time: For each of the Company's RUML²² years 2005, 2006 and 2007, if Con Edison does not respond to gas leak calls within 30 minutes for at least 73%, 74% and 75%, respectively, of the calls, a \$500,000 negative rate adjustment will be applied to the benefit of firm customers, as directed by the Commission; provided, however, there will be no adjustment in any year in which the Company responds to at least 85% of all gas leak calls within 35 minutes.

Gas leak calls resulting from mass area odor complaints, major weather-related occurrences and other circumstances outside of the Company's control are excluded from the calculations for the 30- and 35-minute response times.

iv. Leak Response - 45-Minute Response Time: For each of the RUML years 2005, 2006 and 2007, if Con Edison does not respond to gas leak calls within 45 minutes for at least 95% of the calls, a \$500,000 negative rate adjustment will be applied to the benefit of firm customers, as directed by the Commission.

Gas leak calls resulting from mass area odor complaints, major weather-related occurrences and other circumstances outside of the Company's control are excluded from the calculations for the 45-minute response time.

v. Damages to Gas Facilities Resulting from Mismarks and Company or Company Contractors: If the total number of damages to Company gas facilities resulting from mismarks made by the Company with respect to the location of Company facilities plus damages

²² RUML is a calendar year less one pay week.

to Company facilities made by the Company employees or Company-retained contractors exceeds the targets set forth below for calendar years 2005, 2006 and/or 2007, the negative rate adjustment associated with such target will be accrued and applied to the benefit of firm customers, as directed by the Commission, subject to the conditions and adjustments set forth below; provided, however, no adjustment shall be levied for any year if the total damages over the three years is equal to or less than 260:

2005 –	90 or less	No adjustment
	91 – 100	\$100,000
	101 – 110	\$200,000
	111 or more	\$300,000
2006 –	80 or less	No adjustment
	81 – 90	\$100,000
	91 – 100	\$200,000
	101 or more	\$300,000
2007 –	70 or less	No adjustment
	71 – 80	\$100,000
	81 – 90	\$200,000
	91 or more	\$300,000

The determination of annual negative rate adjustments (if any) applicable to calendar years 2005, 2006 and 2007 will be deferred until the end of calendar year 2007 pending a comparison of total damages for the three calendar years to a total of 260. As noted above, if the total for the three calendar years is 260 or less, there will be no negative rate adjustments applicable to any Rate Year.

The annual targets are based on the existing ratio of 100 damages to the 77,576 one-call tickets received in 2003. These targets will be adjusted up or down for any annual increase or decrease in actual ticket volume in excess of 10% of 77,576 tickets (the “historical level”). For example, if the Company experiences a 12% increase in ticket volume over the historical level in 2006 (i.e., 86,885), the target level of 80 damages would be increased to 82.

A damage to a gas facility shall be as defined in 16 NYCRR § 753-1-2. Damages by Company employees or Company-retained contractors resulting from a mismatch of the same Company facilities shall be counted once, as a mismatch, to avoid double-counting.

7. Miscellaneous Tariff Changes. The Company will implement the following tariff changes as generally described below

i. Clarifying tariff changes will be made to the provisions describing the SC 2 and 3 monthly minimum charge applicable to dual fuel firm customers as applying to: (a) an existing SC 2 or 3 firm customer who converts from gas-only to dual fuel equipment or (b) a dual fuel firm customer whose annual usage increases to 100,000 therms or above after commencing service;

ii. The SC 20 tariff will be amended to eliminate the Virtual Storage Option Service;

iii. The definitions of a firm transportation customer's deficiency and surplus imbalances contained in SC 9 will be changed to charge or credit the customer for line losses by multiplying the deficiency or surplus imbalance by the factor of adjustment ratio used in determining the GCF for the Company's full service sales customers, as explained in paragraph B.4;

iv. The tariff provisions contained in SC 12 and the corresponding SC 9 provision related to customer prepayments for facility costs will be amended to remove the current two-year net revenue test and establish the prepayment/two-year net revenue criteria as one type of incentive available from the Company to customers who would not otherwise elect interruptible gas service;

v. The general information section of the tariff will be amended to provide for the following:

Any firm customer commencing service on or after October 1, 2004, who has dual-fuel capability and whose actual usage for any annual period during the five year period commencing with the first month in which the customer began service, falls below 50% of the customer's Annual Allocation (i.e., estimated annual energy requirement), shall be responsible for reimbursing the Company for the cost of any main reinforcement work done for the customer. Reimbursement shall be in the form of a main reinforcement surcharge ("the Surcharge"), designed to recover the cost of the main reinforcement less 50% of any net base revenue collected from the customer during any annual periods prior to commencement of the Surcharge, and increased to include return, depreciation, taxes and O&M. The Surcharge shall be collected monthly over a five-year period and shall be reduced by 50% of any net base revenue collected from the customer during each month of the Surcharge. However, such reduction shall not exceed the monthly amount of the Surcharge. Whenever cumulative net base revenue collected equals or exceeds the costs being recovered through the main reinforcement surcharge, or after a period of ten years following commencement of the Surcharge, the Surcharge shall cease.

vi. The applicability section contained in SC 2 will be amended to allow religious customers, community residences (supportive or supervised living facilities) and veterans posts to take gas service under this service classification even if they are taking electricity service under residential rates. Although the existing practice of requiring dual service customers to be classified as either residential or non-residential for both gas and electric services is appropriate, this change expands the eligibility criteria to enable such dual service customers to enjoy the same benefits enjoyed by customers receiving these service from two separate utilities.

vii. A new provision will be added to the rate sections contained in SC 12 Rate B and SC 9 Rate C of the gas tariff whereby the Company will consider a request by an off-peak firm customer to individually negotiate a separate delivery rate. Within one week of receipt of acceptable documentation, the Company will provide a response to the customer if the request is rejected. To be eligible for the negotiated rate, a customer's estimated annual energy requirements must be equal to or greater than 3.0 million therms.

The negotiated rate shall be fixed for a term no less than three consecutive months; provided, however, that the customer will continue to be subject to a minimum charge equivalent to the product of fifty percent of the customer's annual energy requirements multiplied by the applicable tariff rate (i.e., 8.0, 7.5 or 7.0 cents per therm for the first 500,000 therms of usage per month and a one cent per therm reduction off such rates for usage over 500,000 therms per month) for the term of the customer's agreement (i.e., one, two or three years). The negotiated rate agreement may include such other terms as the Company deems necessary and appropriate.

The Company will provide to the Signatory Parties and Staff within 75 days of the effective date of this Proposal proposed changes to the Company's GTOP regarding the process that the Company will generally follow in considering a customer request for a negotiated rate for delivery service (e.g., customer submission of acceptable documentation that demonstrates, to the Company's satisfaction, that customer has energy alternatives at a cost below the applicable tariff rate). The terms of each negotiated rate will be filed with the Commission as an addendum to the Company's tariffs consistent with current tariff requirements on the filing of negotiated rate agreements.

H. Steam-Only Items

1. Economic Development

The continued viability of Con Edison's steam system depends in significant part on growing the customer base and increasing steam sales. As part of an overall effort to promote the growth of the steam business, the Company will modify its SC 5 tariff, extend and modify the steam main extension program, work with a Steam Business Development Task Force, and develop an Energy Infrastructure Master Plan. In addition, the Company will contract for a Steam Production Study.

2. SC 5 Tariff

The SC 5 tariff rate provides flexibility for the Company and the customer in attracting and retaining steam customers. Where a viable threat of competition exists, the SC 5 tariff permits the Company to negotiate a special rate for the customer. As an effort to promote the Company's steam business and use of the SC 5 rate, the Company will file tariff leaves implementing the following modifications to the SC 5 tariff, within 30 days from the date of Commission approval of this Proposal:

- i. The Company will respond to requests for SC 5 service within 30 calendar days;
- ii. When requested by a customer, Con Edison will provide the basis for its decision not to offer a negotiated rate under the SC 5 tariff within 15 business days of the date of such decision;
- iii. A customer who either fails to receive a negotiated rate or objects to the rate offered under the SC 5 tariff may appeal the Company's decision to the Department of Public Service's Director of Economic Development and Policy Coordination;

iv. Unless otherwise agreed to by the customer and upon full disclosure, the negotiated rate under the SC 5 tariff shall not exceed the tariff rate in effect for or applicable to the customer at the time of the execution of the SC 5 contract; and

v. Con Edison shall provide marginal cost calculations to Staff and may request trade secret protection for such calculations. The Company shall use marginal costs appropriate to the length of the SC 5 contract.²³

3. Service Lines and Steam Main Extensions/Reinforcements

Currently, Con Edison's steam tariff specifies the respective rights and obligations of the Company and prospective customers with respect to the connection of customers whose premises are within 100 feet of the Company's existing steam mains/lines. To assist in attracting new steam customers, all such rights and obligations will be made applicable to customers whose premises are within 250 feet of the Company's existing steam mains/lines. Because the revenue requirement for the Steam Rate Period is predicated upon the existing 100 feet criteria, the Company is permitted to defer, for later recovery, the additional costs incurred as a result of the tariff changes under this paragraph H.3.

To further assist in attracting new customers, while fairly allocating the responsibility for the cost of serving such customers, the tariff terms for Prepayment for Extension or Reinforcement of Steam Mains/Lines will be modified as follows: For customers requiring an extension or reinforcement in excess of 250 feet, Con Edison shall estimate the pure base revenue to be provided by the prospective customer over a two-year period. If such estimated revenue is less than the expenditure involved, the customer may make a prepayment covering the estimated cost of such extension or reinforcement less the two-year pure base revenue. During the first ten years

²³ Where short run marginal costs are used, they shall not include capital costs.

starting from the date when service is first supplied, the prepayment will be credited to the customer, without interest, in monthly installments equal to one-tenth of the amount collected in each bill for steam supplied to the customer. The unrefunded prepayment, if any, remaining at the expiration of the said ten year period, or at the end of a lesser period in the event that the use of steam is permanently discontinued at the customer's premises, will be retained by the Company. Alternatively, a customer meeting the Company's credit standards may opt to pay the estimated cost of such extension or reinforcement, less the two-year pure base revenue, in annual payments over a ten-year period, payable at the anniversary of the commencement of service, equal to the excess of (i) the annual carrying costs over a ten-year period for the extension or reinforcement over (ii) one-tenth of the amount collected in bills for steam service from the customer over the preceding 12-month period. The alternative payment arrangement is intended to provide the Company with full recovery of all capital and carrying costs associated with the main extension or reinforcement. Therefore, the annual payments of a customer selecting this alternative will be reduced by contributions that additional steam customers connected to the extended steam main are required to make.

4. Steam Business Development Task Force

A Steam Business Development Task Force (Task Force) will be formed to develop a detailed Steam Business Development Plan (Development Plan). The Task Force will establish rules relating to confidentiality of information exchanged among the Task Force members or obtained by the Task Force from other sources.

i. Membership

The Task Force will be comprised of representatives of the active parties to Case 03-S-1672. The size of the Task Force shall not exceed 15 members and shall contain at least one representative from consumer, public interest, and steam supplier groups. The Task Force will be

led by core members, who shall include no more than two representatives each from the Department of Public Service, Con Edison, New York City Economic Development Corporation, and New York State Empire State Development (Core Task Force Members).

ii. Implementation and Coordination

The Task Force shall meet at least quarterly during the term of the Steam Rate Plan. The first quarterly meeting of the Task Force will take place no later than 30 days from the date of Commission approval of this Proposal.

The Task Force may, and is encouraged to, consult with representatives of equipment manufacturers, engineering firms, building owners and managers, contractors, and other interested parties to obtain information and solicit ideas for attracting new steam customers.

The Task Force will coordinate with the existing steam air conditioning working group, which is comprised of representatives from New York City, Con Edison, NYSERDA, and equipment manufacturers. The Task Force will offer the steam air conditioning working group assistance in the development and application of NYSERDA Program Opportunity Notices and funding for steam air conditioning programs. Additionally, the Task Force will, where appropriate, coordinate its efforts with New York City's and New York State's redevelopment efforts for lower Manhattan.

iii. Reporting Requirements

Con Edison will periodically report to the Task Force on the Company's progress in attracting new steam customers, particularly with respect to any new construction projects in New York City exceeding 150,000 square feet. Additionally, the Company will report on its efforts to attract the following projects, including, but not limited to: Department of Sanitation facility to be constructed on 11th Avenue in the West 30's, Javits Convention Center expansion, New York

Sports and Convention Center, Battery Park City, First Avenue Properties, various hospital expansions and developments, and the World Trade Center redevelopment.

5. Steam Business Development Plan

The target for submission of the Development Plan and proposed implementation schedule to the Commission is March 2005.

The Development Plan will, at a minimum:

- i. Identify market sectors and geographic areas suitable for expansion of steam service, identify market risks and obstacles impeding the growth of steam sales and recommend the means to overcome them;
- ii. Investigate with applicable equipment vendors means of reducing the financing cost and other financial arrangements for purchasing or leasing steam equipment;
- iii. Explore the use of business incentives, including negotiated rates, to promote load growth;
- iv. Set sales growth targets and hold educational workshops and meetings for contractors, building owners and managers, architects, engineers and equipment manufacturers to increase knowledge of steam benefits; and
- v. Develop mechanisms for monitoring steam business development.

Any party, including Task Force members, is permitted to submit comments to the Commission regarding the Development Plan.

6. Cost Recovery

Reasonable incremental costs incurred by the Company as a result of the Development Plan will first be offset by any steam sales growth realized during the Steam Rate Plan that is

incremental to the sales forecast reflected in this Proposal and that is directly attributable to the Development Plan. The remaining costs may be deferred for later recovery.

7. Energy Infrastructure Master Plans

Con Edison in coordination with the Department of Public Service and New York City Economic Development Corporation, and with input from other City agencies and NYSERDA, will develop and complete an Energy Infrastructure Master Plan (Master Plan) for each of the areas in New York City for which major redevelopments are under consideration (e.g., Downtown Manhattan, Hudson Yards area, Greenpoint, Downtown Brooklyn). The Master Plans will examine the major service options (i.e., electric, gas, and steam, where applicable), for the redevelopment area and provide recommendations for additional demand-side management techniques. The Master Plans will also identify major cost and associated considerations (e.g., environmental and space limitations) for each service option.

Con Edison will also coordinate with the Department of Public Service and the County of Westchester's Director of Economic Development, with input from other county agencies, municipalities, and NYSERDA, to develop and complete a Master Plan for each of the areas in the County for which major redevelopments are under consideration. The Master Plans will examine the major service options (i.e., electric and gas, where applicable) for the redevelopment area and provide recommendations for additional demand-side management techniques. The Master Plans will also identify major cost and associated considerations (e.g., environmental and space limitations) for each service option.

A timetable will be established by the participants for completion of each Master Plan; best efforts will be used to complete the Master Plans for Downtown Manhattan and the Hudson Yards within one year of Commission approval of the Proposal.

The Company may defer the incremental cost incurred in connection with the Master Plans for later recovery, with the costs for each plan apportioned among gas, steam and electric customers using common plant allocations.

8. Steam Production Study

The Company will contract for an investment-grade study of long-term steam production options. The Company may defer the cost of the study for later recovery. The study must be developed and performed by an independent engineering firm. The independent engineering firm shall be procured through a Request for Proposal process.

The scope of the study will be developed in coordination with the Department of Public Service and New York City Economic Development Corporation, and with input from other members of the Task Force. Generally, the study will examine the Company's present costs of production at each steam unit and estimate costs for the next 20 years, analyze the potential of, and cost for, repowering Hudson Avenue, 74th Street, and 59th Street, consider other alternative steam production sources to existing steam plants, evaluate emission reduction benefits, and address other related issues identified by the Task Force.

Cost projections will be treated as confidential data and shall not be disclosed to any party (including steam supplier representatives) other than the core members of the Task Force.

9. Miscellaneous Tariff Change. The Company will implement a tariff change for its steam repair program, to permit the Company to charge customers based on the estimated cost for the repair as well as for pricing the materials used at fair market value, plus handling costs.

I. Other Provisions

1. Rate Changes.

The provisions of this Proposal will continue after the Third Rate Year for gas and the Second Rate Year for steam, respectively, unless and until changed by Commission order.

Nothing herein precludes Con Edison from filing a new general gas rate case prior to October 1, 2007, for rates to be effective on or after October 1, 2007, or from filing a new general steam rate case prior to October 1, 2006, for rates to be effective on or after October 1, 2006.

Due to the manner in which the Company's steam revenue requirement will be phased-in over the two-year term of this Proposal, the Company will prepare and transmit by November 2005 to Staff its forecast of expected earnings levels for at least the year ending September 30, 2007, along with supporting workpapers. The submission will include cost of service, rate base and capitalization schedules and supporting workpapers that will support the calculations of the earnings for the period ending September 30, 2007.

Changes to the Company's base gas and steam rates during the Gas and Steam Rate Plans, respectively, will not be permitted, except for (a) changes provided for in this Proposal and (b) subject to Commission approval, changes as a result of the following circumstances:

i. A minor change in any individual base rate or rates whose revenue effect is de minimis or essentially offset by associated changes in other base rates, terms or conditions of service -- for example, an increase in a specific base rate charge in one service classification that is offset by a decrease in another base rate charge in the same or in other service classifications. It is understood that, over time, such minor changes are routinely made and that they may continue to be made during the term of the respective Rate Plans, provided they will not result in a change (other than a de minimis change) in the revenues that Con Edison's base gas and steam rates are designed to produce overall before such changes.

ii. If a circumstance occurs which in the judgment of the Commission so threatens Con Edison's economic viability or ability to maintain safe, reliable and adequate service

as to warrant an exception to this undertaking, Con Edison will be permitted to file for an increase in base gas and/or steam rates at any time under such circumstances.

iii. The Signatory Parties recognize that the Commission reserves the authority to act on the level of Con Edison's base gas and/or steam rates in the event that, in the Commission's opinion, Con Edison's gas and/or steam rates are unreasonable or insufficient for the provision of safe, reliable and adequate service.

iv. Nothing herein shall preclude Con Edison from petitioning the Commission for approval of new services or rate design or revenue allocation changes on an overall revenue-neutral basis, including, but not limited to, the implementation of new service classifications and/or cancellation of existing service classifications.

2. Legislative, Regulatory and Related Actions.

i. If the federal government, State of New York, the City of New York and/or other local governments make changes in their tax laws (other than local property taxes, which will be reconciled in accordance with section E above) that result in the Company's incurring incremental gas costs in an annual amount of \$2 million or more or steam costs in an annual amount of \$0.5 million or more, and if the Commission does not permit the disposition, through a surcharge or credit, of any such tax law changes, including any new, additional, repealed or reduced federal, state, City of New York or local government taxes, fees or levies, Con Edison will defer the full change in expense subject to paragraph E.8 and reflect such deferral as credits or debits to customers in the next base rate change, subject to any final Commission determination in a generic proceeding prescribing utility implementation of a specific tax law enactment, including

Commission determination of any Company-specific compliance filing made in connection therewith.²⁴

ii. If any other law, rule, regulation, order, or other requirement or interpretation (or any repeal or amendment of an existing rule, regulation, order or other requirement) of the state, local or federal government or courts, including a requirement that Con Edison refund its tax exempt debt, results in a change in Con Edison's annual gas and/or steam costs or expenses not anticipated in the expense forecasts and assumptions on which the rates in this Proposal are based, and in the Company's incurrence of incremental gas costs in an annual amount of \$2 million or more or steam costs in an annual amount of \$0.5 million or more,²⁵ Con Edison will defer on its books of account the full change in expense subject to paragraph E.8, with any such deferrals to be reflected in the next base rate case or in a manner to be determined by the Commission.

iii. The Company will retain the right to petition the Commission for authorization to defer extraordinary expenditures not otherwise addressed by this proposal.

3. Provisions Not Separable.

i. The Signatory Parties intend this Proposal, as it relates to the Gas Rate Plan, to be a complete resolution of all the issues in Case No. 03-G-1671. It is understood that each provision of this Proposal is in consideration and support of all the other provisions, and expressly

²⁴ The Company reserves all of its administrative and judicial rights in connection with such generic proceeding(s).

²⁵ For purposes of this Proposal, the \$2 million (for gas) and \$0.5 million (for steam) thresholds will be applied on a case-by-case basis and not to the aggregate impact of changes of two or more laws, rules, etc.; provided, however, that these thresholds will be applied on a Rate Year basis to the incremental aggregate impact of all contemporaneous changes (i.e., changes made as a package even if they occur or are implemented over a period of months) affecting a particular subject area and not to the individual provisions of the new law, rule, etc.

conditioned upon acceptance by the Commission. Except as set forth herein, none of the Signatory Parties is deemed to have approved, agreed to or consented to any principle, methodology or interpretation of law underlying or supposed to underlie and provision herein. If the Commission fails to adopt this Proposal according to its terms, then the Signatory Parties to the Proposal shall be free to pursue their respective positions in this proceeding without prejudice.

ii. The Signatory Parties intend this Proposal, as it relates to the Steam Rate Plan, to be a complete resolution of all the issues in Case No. 03-S-1672. It is understood that each provision of this Proposal is in consideration and support of all the other provisions, and expressly conditioned upon acceptance by the Commission. Except as set forth herein, none of the Signatory Parties is deemed to have approved, agreed to or consented to any principle, methodology or interpretation of law underlying or supposed to underlie and provision herein. If the Commission fails to adopt this Proposal according to its terms, then the Signatory Parties to the Proposal shall be free to pursue their respective positions in this proceeding without prejudice.

4. Provisions Not Precedent. The terms and provisions of this Proposal apply solely to, and are binding only in, the context of the purposes and results of this Proposal. None of the terms or provisions of this Proposal and none of the positions taken herein by any party may be referred to, cited, or relied upon by any other party in any fashion as precedent or otherwise in any other proceeding before this Commission or any other regulatory agency or before any court of law for any purpose other than furtherance of the purposes, results, and disposition of matters governed by this Proposal.

5. Prudence Proceedings. No Signatory Party is prohibited from participating in any prudence proceeding involving matters addressed herein.

6. Submission of Proposal.

i. The Signatory Parties, as they relate to the Gas Rate Plan, agree to submit this Proposal as it relates to the Gas Rate Plan to the Commission and to individually support and request adoption by the Commission in its entirety as set forth herein. The Signatory Parties hereto believe that the Proposal will satisfy the requirements of Public Service Law §65(1) that Con Edison provide safe and adequate service at just and reasonable rates.

ii. The Signatory Parties, as they relate to the Steam Rate Plan, agree to submit this Proposal as it relates to the Steam Rate Plan to the Commission and to individually support and request adoption by the Commission in its entirety as set forth herein. The Signatory Parties hereto believe that the Proposal will satisfy the requirements of Public Service Law §79(1) that Con Edison provide safe and adequate service at just and reasonable rates.

7. Effect of Commission Approval. No provision of this Proposal or the Commission's approval of this Proposal shall in any way abrogate or limit the Commission's statutory authority under the Public Service Law. The Parties recognize that any Commission approval of this Proposal does not waive the Commission's ongoing rights and responsibilities to enforce its orders and effectuate the goals expressed therein, nor the rights and responsibilities of Staff to conduct investigations or take other actions in furtherance of its duties and responsibilities,

8. Further Assurances. The Signatory Parties recognize that certain provisions of this Proposal require that actions be taken in the future to fully effectuate this Proposal. Accordingly, the Signatory Parties agree to cooperate with each other in good faith in taking such actions.


9. Execution. This Proposal is being executed in counterpart originals, and shall be binding on each Signatory Party when the counterparts have been executed.

CASES 03-G-1671 & 03-S-1672

IN WITNESS WHEREOF, the Signatory Parties hereto have affixed their signatures below as evidence of their agreement to be bound by the provisions of this Proposal on the day and year first written above.

CONSOLIDATED EDISON COMPANY
OF NEW YORK, INC.

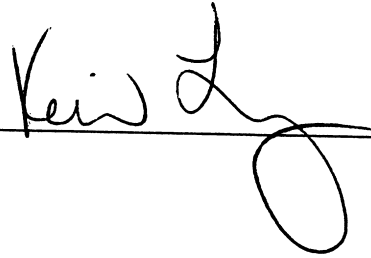
Dated: May 28, 2004

By: 

NEW YORK STATE DEPARTMENT OF
PUBLIC SERVICE STAFF

Dated: May 28, 2004

By: _____

A handwritten signature in black ink, appearing to read "Kevin D. [unclear]", is written over a solid horizontal line. The signature is cursive and includes a large loop at the end.

CASES 03-G-1671 & 03-S-1672

CITY OF NEW YORK

Dated: May 28, 2004

By: Robert M. Loughrey

CASES 03-G-1671 & 03-S-1672

CONSUMER POWER ADVOCATES

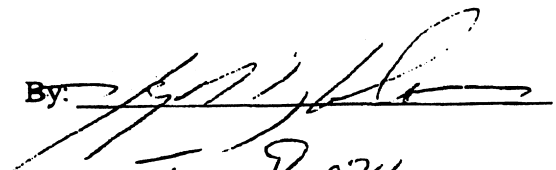
Dated: May 28, 2004

By: *Carlyne Futh*

CASES 03-G-1671 & 03-S-1672

NEW YORK ENERGY BUYERS FORUM

Dated: May 28, 2004

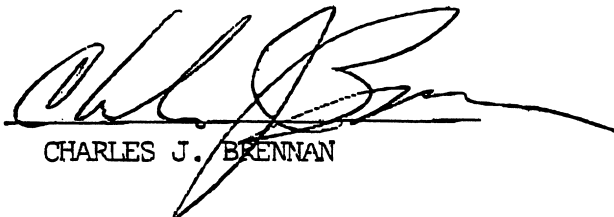
By: 
JAY RAPHAELSON

CASES 03-G-1671 & 03-S-1672

PUBLIC UTILITY LAW PROJECT OF
NEW YORK, INC.

Dated: May 28, 2004

By:

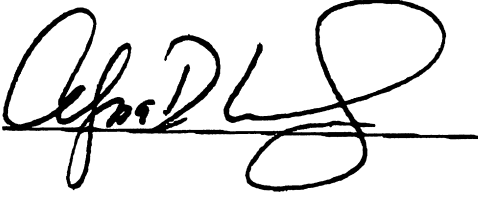
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CHARLES J. BRENNAN

03-G-1671 & 03-S-1672

AMERADA HESS CORPORATION


May 28, 2004

By: 



NORTH AMERICAN ENERGY, INC.

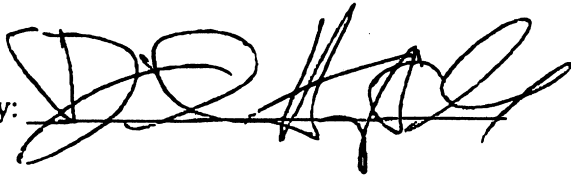
Dated: May 28, 2004

By: 
WAYNE STOUGHTON

CASES 03-G-1671 & 03-S-1672

ASSOCIATION FOR ENERGY
AFFORDABILITY, INC.

Dated: May 27, 2004

By: 

BROOKLYN NAVY YARD
COGENERATION PARTNERS,
L.P.

Dated: May 28, 2004

By: Robert A. Agnello
Robert A. Agnello

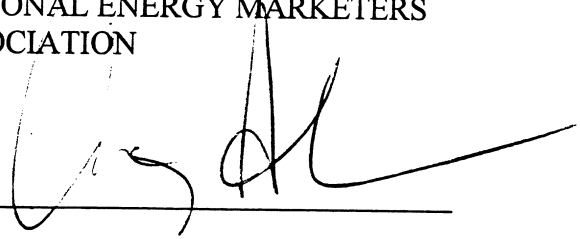
Brooklyn Navy Yard Cogeneration Partners, L.P.'s ("BNYCP") execution of the Joint Proposal is to support subsections 3-8 of Section H, "Steam-Only Items," of the Joint Proposal. BNYCP expresses no opinion as to any other part of the Joint Proposal.

NATIONAL ENERGY MARKETERS
ASSOCIATION

Dated: May _____, 2004

June 1

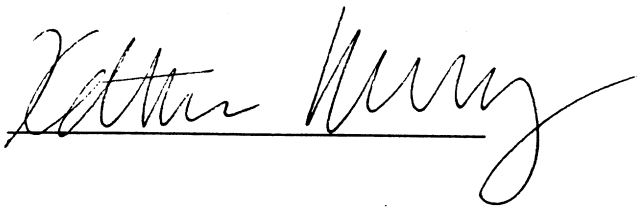
By: _____

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CASES 03-G-1671 & 03-S- 2

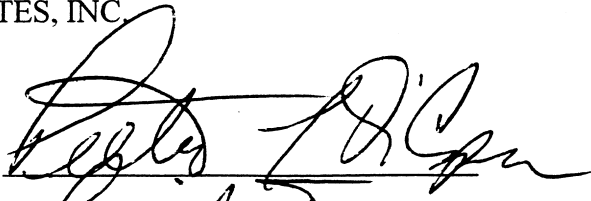
NATURAL RESOURCES DEFENSE
COUNCIL, INC.

Dated: May 08, 2004

By: 

OWNERS' COMMITTEE ON ELECTRIC
RATES, INC.

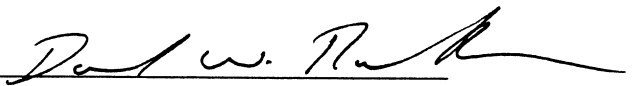
Dated: May 28, 2004

By: 
President

CASES 03-G-1671 & 03-S-1


PACE LAW SCHOOL ENERGY PROJECT

Dated: May 28, 2004

By: 

SMALL CUSTOMER MARKETER
COALITION*

Dated: May 27, 2004

By: 
Usher Fogel, Counsel

* SCMC excepts from its agreement and reserves its right to oppose Section G (4) (i) entitled “Advisory Group”, to the extent that this section of the Joint Proposal excludes ESCOs from inclusion in the Advisory Group.

APPENDIX A

GAS AND STEAM REVENUE REQUIREMENTS

Consolidated Edison Company of New York, Inc.
Calculation of Gas Revenue Requirement
Case 03-G-1671
For The Twelve Months Ending September 30, 2005
\$000's

	Rate Year Forecast	Rate Increase	Rate Year With Rate Increase
Sales Revenues	\$ 533,110	\$ 28,700	\$ 561,810
Less Other Fuel Charges	(1,781)	-	(1,781)
Less Gross Receipts Tax (GRT)	(20,265)	(1,091)	(21,356)
Other Revenues	<u>75,927</u>	<u>-</u>	<u>75,927</u>
Net Revenues	<u>586,990</u>	<u>27,609</u>	<u>614,599</u>
Operations & Maintenance Expenses	209,816	135	209,951
Depreciation	75,665	-	75,665
Taxes Other Than Income Taxes & GRT	<u>107,989</u>	<u>-</u>	<u>107,989</u>
Total Deductions	<u>393,470</u>	<u>135</u>	<u>393,605</u>
Operating Income Before Income Taxes	<u>193,521</u>	<u>27,474</u>	<u>220,995</u>
Federal Income Tax	42,668	8,895	51,562
New York State Income Taxes	<u>10,019</u>	<u>2,061</u>	<u>12,080</u>
Utility Operating Income	<u>\$ 140,833</u>	<u>\$ 16,519</u>	<u>\$ 157,352</u>
Rate Base	<u>\$ 1,952,261</u>		<u>\$ 1,952,261</u>
Rate of Return	<u>7.21%</u>		<u>8.06%</u>

Consolidated Edison Company of NY, Inc.
 Gas 2nd & 3rd Stage Increase
 Case 03-G-1671
 \$ 000's

Rate Year Ending	September 30,		
	2005	2006	2007
First Year Increase	\$ 28,700		
Annual Increases			
- Pensions		\$ 1,700	\$ 4,400
- Book Depreciation		3,200	3,200
- Property Taxes (7% escalation)		6,700	7,200
- Plant Rate Base Additions		11,500	11,600
- Reserve for Stage 2&3 Increases		(4,700)	(8,100)
Total Revenue Requirements	\$ 28,700	\$ 18,400	\$ 18,300

Consolidated Edison Company of New York, Inc.
 Calculation of Steam Revenue Requirement
 Case 03-S-1672
 For The Twelve Months Ending September 30, 2005
 \$ 000's

	Rate Year Forecast	Rate Increase	Rate Year With Rate Increase
Operating Revenues			
Sales Revenues	\$ 384,668	\$ 62,600	\$ 447,268
Other Revenues	27,075		27,075
Net Revenues	<u>411,743</u>	<u>62,600</u>	<u>474,343</u>
 Operating Expense			
Fuel	197,010		197,010
Other fuel charges	4,152		4,152
Operations & Maintenance Expenses	133,385		133,385
Depreciation	17,838		17,838
Taxes Other Than Income Taxes & GRT	58,232	1,540	59,772
Total Deductions	<u>410,617</u>	<u>1,540</u>	<u>412,157</u>
 Operating Income Before Income Taxes	<u>1,126</u>	<u>61,060</u>	<u>62,186</u>
 Federal Income Tax	(9,230)	19,768	10,538
New York State Income Taxes	<u>(1,375)</u>	<u>4,579</u>	<u>3,204</u>
 Utility Operating Income	<u>\$ 11,731</u>	<u>\$ 36,712</u>	<u>\$ 48,443</u>
 Rate Base	<u>\$ 600,443</u>		<u>\$ 600,651</u>
 Rate of Return	<u>1.95%</u>		<u>8.06%</u>

Consolidated Edison Company of NY, Inc.

Steam 2nd Stage Increase

Case 03-S-1672

\$ 000's

Rate Year Ending	September 30,	
	2005	2006
First Year Increase	\$ 62,600	
Annual Increases		
- Pension & OPEBs		\$ 700
- Book Depreciation		1,300
- Property Taxes (7% escalation)		2,700
- Plant Rate Base Additions		2,600
- Accounting Credits (Special Franchise Tax)		400
- Reserve for Stage 2 Increases		(6,200)
Total Revenue Requirements	\$ 62,600	\$ 1,500
Less: estimated ERRP Savings *	(29,500)	(7,300)
Annual Customer Impact	\$ 33,100	\$ (5,800)
<u>Two Year Phase-In of Rate Increase</u>		
Annual Base Rate Increase	\$ 49,600	\$ 27,400
Less: estimated ERRP Savings **	(29,500)	(7,300)
Annual Customer Impact	\$ 20,100	\$ 20,100

* Annual Fuel Saving (\$64 million) less cost of ERRP (\$27.2 million) = \$36.8 million

APPENDIX B

GAS MULTI-YEAR REVENUE REQUIREMENT OPTIONS

Con Edison Gas
 Computation of One Year Rate Increase
 Case 03-G-1671
 Covering RY1, RY2 & RY3

Option A

Annual Increases	Twelve Months Ending September 30,			Total
	2005	2006	2007	
RY1	\$ 28.7	\$ 28.7	\$ 28.7	\$ 86.1
RY2	-	18.4	18.4	36.8
RY3	-	-	18.3	18.3
Total Increases	<u>\$ 28.7</u>	<u>\$ 47.1</u>	<u>\$ 65.4</u>	<u>\$ 141.2</u>

Option B

One Time Increase - w/o Interest	\$ 47.1	\$ 47.1	\$ 47.1	\$ 141.2
Revenue Deferral Amount	(18.4)	0.0	18.3	(0.0)
Net Revenues	<u>\$ 28.7</u>	<u>\$ 47.1</u>	<u>\$ 65.4</u>	<u>\$ 141.2</u>
Interest on Deferral @ 4.2%	<u>\$ (0.2)</u>	<u>\$ (0.5)</u>	<u>\$ (0.2)</u>	<u>\$ (0.9)</u>
One Time Increase - with Interest	\$ 46.8	\$ 46.8	\$ 46.8	\$ 140.3
Revenue Deferral Amount	(18.3)	(0.1)	18.4	-
Net Revenues	<u>\$ 28.5</u>	<u>\$ 46.6</u>	<u>\$ 65.2</u>	<u>\$ 140.3</u>

APPENDIX C

GAS RATE DESIGN

A. Rate Year 1

The gas rates will be designed in three steps. First, rates will be redesigned to provide for recovery of: a \$335,991 annual revenue loss resulting from the transfer of Service Classification Nos. (“SC”) SC 1 and 3 religious institutions, community residences (that are supportive or supervised living facilities) and veterans posts that elect to take service under the SC 2 firm gas non-residential service classification. This will be accomplished by increasing the block rates in excess of three therms across SC 1, 2, and 3 and the corresponding SC 9 firm transportation rates by 0.0004 cents per therm. No increase will be made to the SC 13 rates, SC 2 and 3 air-conditioning rates and Riders E,F,G and I rates. Second, the increased revenue requirement and changes related to state income taxes and recovery of low income rate reductions, will be allocated to firm service classes as described in paragraphs 1 through 3 below. Finally, proposed gas delivery rates will be designed for each firm service class to collect its respective assigned increase as explained in paragraph 4 below.

1. Allocation of Increased Revenue Requirement.

Under Option A, for the First Rate Year, the total increase in the Company’s revenue requirement of \$28,700,000, less gross receipts taxes of \$1,091,000, but inclusive of \$2,061,000 of SIT, will be allocated to firm sales and firm transportation customers in SC 1, 2, 3, 9 and 13, in the following manner: (a) SC 1 and the corresponding SC 9 firm transportation sub-class will be assigned 1.25 times the overall average delivery rate percentage increase (“average delivery increase”); (b) SC 2 heating and the corresponding SC 9 firm transportation sub-class will be assigned 0.75 times the average delivery increase; (c) SC 3 and the corresponding SC 9 firm transportation sub-class will be assigned the average delivery increase; and (d) SC 2 non-heating and SC 13 and the corresponding SC 9 firm transportation sub-class will be assigned the balance of the increased revenue requirement resulting in increases for these classes that will be slightly below the average delivery increase. The overall average delivery rate percentage increase will be determined by dividing the Rate Year delivery revenue increase by the total Rate Year delivery revenues, as adjusted to recognize the annual loss in revenues resulting from the transfer of religious institutions, community residences and veteran’s posts to firm non-residential service.

Under Option B, the Company will implement a one-time increase of \$46,800,000 less gross receipts taxes of \$1,778,000. Such increased revenue requirement will be allocated to firm sales and firm transportation customers in SC 1, 2, 3, 9 and 13 in the same manner as described above.

2. Recovery of Low Income Rate Reductions.

In order to recover the cost of annual rate reductions to be provided to customers qualifying for the low income program in paragraph D below, an additional \$1.6 million will be allocated to

SC 1, 2, 3 and 13 firm sales classes and the corresponding SC 9 firm transportation sub-classes in proportion to each class' delivery revenues for the Rate Year. This will keep overall Company delivery revenues unchanged (i.e., the change is revenue neutral).

3. State Income Taxes.

Commencing October 1, 2004, SIT will be recovered through base delivery rates from firm sales and firm transportation customers. This will replace the current mechanism of recovering such tax expenses as a separate percentage increase in rates and charges. As previously mentioned, the increased revenue requirement includes SIT related to the rate increase. The Rate Year SIT expense, before the rate increase (\$7,249,000 less gross receipts tax of \$275,000), will be reflected as an increase to base revenues with a corresponding decrease in the amount collected through the separate percentage increase in rates and charges. It will be allocated across each service class based on the ratio of Rate Year delivery revenues in each class to the total Rate Year delivery revenues.

For under or over-collections of SIT related to periods prior to October 1, 2004, the Company will continue the current mechanism of surcharging or crediting such amounts through the separate percentage increase in rates and charges.

4. Rate Design Within Each Service Class.

Starting with the rate year increases assigned to each service class, a revenue ratio for each class will be developed by dividing the class' Rate Year delivery revenues by the class' delivery revenues for the historical test period, (i.e., the 12-months ended December 31, 2002, the period for which detailed billing data were available). The RY1 delivery revenue increases assigned to each class, including the SIT portion of the current revenue requirement and the recovery of \$1.6 million of low income annual rate reductions, will then be divided by each class's revenue ratio to determine each class's delivery rate increase for the historical test period. The historical period delivery revenues used in these computations will include the use of the October 1, 2003 rates redesigned to reflect the effect of the religious rate adjustment discussed above. The proposed historical revenue increases will then be allocated within each class as follows:

- a. The minimum charge (the charge for the first three therms or less) in SC 1, 2, and 3 will be increased by 1.5 times the overall average delivery rate percentage increase. The SC 13 minimum charge and the corresponding SC 9 firm transportation rates, which collects minimum charges over seven months as opposed to twelve months, will be increased to reflect the increase in the SC 1, 2 and 3 minimum charges.
- b. The SC 1 remaining rate block (for usage over three therms per month) will be designed to collect the balance of the historical revenue increase assigned to SC 1 after accounting for the increased revenues to be collected through the proposed minimum charge.

- c. As previously mentioned, the minimum charges in SC 2 and 3 will be set equal to the SC 1 minimum charge. The rates applicable to the 4-90 therm block in SC 2 and 3 will be set equal to the proposed SC 1 block rate for usage over three therms. The remaining two block rates within SC 2 and 3 (for usage between 90-3,000 therms and for usage over 3,000 therms) will be set to collect each class's respective revenue increase remaining after deducting the increase in annual revenues resulting from the changes to the minimum charges and air-conditioning rates (as explained in (d) below).
- d. After accounting for the increased revenues to be collected through the proposed SC 13 minimum charge, the remaining rate blocks in SC 13 will be assigned the balance of the rate increase applicable to SC 13. The air-conditioning rates within SC 2 and 3 will be set equal to the proposed block rates in SC 13.
- e. The Riders E, F, G and I incentive rates, for usage up to 250 therms per month, will be set equal to the proposed SC 2 rates. The delivery rates for usage in excess of 3,000 therms per month ("terminal rate") will be set at 50% of the corresponding proposed SC 2 delivery rates. To maintain the existing rate differential between the SC 2 penultimate and terminal rates, the Rider E, F, G and I delivery rates for usage between 250-3,000 therms ("penultimate rate") will be set at the increased terminal rates plus the difference between the proposed SC 2 penultimate rate and the proposed SC 2 terminal rate.
- f. No increases will be allocated to SC 14, bypass customers taking firm service under contract rates and to distributed generation customers taking service under Rider H.

Under Option B, the rate design is the same as under Option A except that the minimum charge (the charge for the first three therms or less of monthly gas usage) in SC 1, 2, and 3, and in the corresponding SC 9 firm transportation rates, will be increased by 1.30 times the overall average delivery percentage increase. Similarly, the SC 13 minimum charge and the corresponding SC 9 firm transportation rates will be increased to reflect the increase in the SC 1, 2, and 3 minimum charges.

B. Rate Years 2 and 3 (Option A only)

For RYs2 and 3, the increased revenue requirement applicable to each respective Rate Year, including associated SIT but excluding gross receipt taxes, will be allocated to firm sales and firm transportation customers in SC 1, 2, 3, 9 and 13. All such classes will be assigned one times the overall average delivery rate percentage increase. Like RY1, a revenue ratio for each class will be developed by dividing the class' Rate Year delivery revenues by the class' delivery revenues for the historical test period (i.e., the twelve months ended December 31, 2002). The Rate Year delivery increases assigned to each class will then be divided by each class's revenue ratio to determine each class's delivery rate increase for the historical test period

Except for the minimum charge applicable to SC 1, 2, 3 and 13, the historical year delivery rate increases assigned to each class, will be allocated within each class consistent with the methodology followed in Rate Year 1. The minimum charge (the charge for the first three therms or less of monthly gas usage) in SC 1, 2 and 3, and in the corresponding SC 9 firm transportation rates, will be increased by the overall average delivery percentage increase. The SC 13 minimum charge and the corresponding SC 9 firm transportation rates, which collects minimum charges over seven months as opposed to 12 months, will be increased to reflect the increase in the SC 1, 2 and 3 minimum charges.

C. Recovery of Interruptible Plant

Beginning with the First Rate Year, firm customers' share of Non-Firm Revenues will be reduced to provide for recovery of the cost of plant in service applicable to interruptible and off-peak firm customers (excluding power generation customers) as of September 30, 2004, estimated to be \$202,137 per month. Such cost shall be amortized over a five-year period by reducing the deferred balance of firm customers' share of Non-Firm Revenues remaining at the end of each month. If firm customers' share of Non-Firm Revenues in any month is insufficient to recover the amount of interruptible plant being amortized, the amortization will be carried over to a subsequent month until recovered. Any amount remaining unrecovered at the end of five years will be deferred for future recovery.

For the term of the Proposal, the revenues generated from each interruptible customer commencing service on or after October 1, 2004 under SC 12 Rate 1 and the corresponding SC 9 subclass shall be applied to offset facility costs incurred to serve that customer. Therefore, the Company will retain all such revenues from a new interruptible customer installation and exclude such revenues from Non-Firm Revenues. The revenues will be applied against facility costs, including return and taxes associated with that customer until the investments are fully recovered. Thereafter, the revenues provided by the interruptible customer will be considered Non-Firm Revenues and included in the non-firm revenue sharing mechanism. Facility costs will be increased to reflect return and taxes.

D. Low Income Rate

The Company will implement a low-income customer rate program targeted at low-income residential customers taking service under SC 1 (non-heating) and 3 (heating), and corresponding SC 9 customers which will provide \$1.6 million of annual rate reductions on average in RY 1, RY 2 and RY 3. To qualify for the program, a customer must be receiving benefits under any of the following governmental assistance programs: Supplemental Security Income, Temporary Assistance to Needy Persons, Safety Net Assistance, Medicaid, or Food Stamps, or have received a Home Energy Assistance Program grant in the preceding 12 months.

For each Rate Year, the low-income rates applicable to eligible SC 3 customers will be set at the full SC 3 delivery rates, including the full minimum charge (the charge for the first three therms or less of monthly gas usage), except that the delivery rate for monthly usage between four and 90 therms will be reduced by 25 percent of the full delivery rate for usage within that block.

For eligible SC 1 customers, the full minimum charge (the charge for the first three therms or less of monthly gas usage) will apply, but the delivery rate applicable to monthly usage over three therms will be reduced by 25 percent of the full delivery rate for usage within that block. A customer receiving the low-income rate reduction will be subject to all other applicable rates and charges of the customer's applicable service classification.

If the Company, in consultation with active parties, estimates that the aggregate actual rate reductions to be provided to low income customers over the three Rate Years ending September 30, 2007 will exceed or be less than \$4.8 million, the Company may, after consultation with active parties, revise the 25 percent rate reduction applicable in RY3. Revised rates to implement this revision may be filed on 30 days' notice. If the Company determines to revise such percentage, the percentage rate reduction established for RY3 shall not exceed 30% or be less than 20% of the full delivery rate. At the end of RY3, any difference remaining between \$4.8 million and the aggregate actual level of low income reductions provided over the three Rate Years ending September 30, 2007 shall be credited or surcharged to SC 1, 2, 3 and 13 firm customers and corresponding SC 9 firm transportation customers, including low income customers, as an adjustment to the Monthly Rate Adjustment over a twelve-month period, commencing October 1, 2007.

APPENDIX D

GAS LOST AND UNACCOUNTED FOR

A. TOTAL DISTRIBUTION METHODOLOGY

<u>Item</u>	<u>Monthly Volume Data Required</u>	<u>Description</u>
1	Total sendout	Total citygate volumes minus Plants and LNG injections
2	Firm sales & transportation	Firm customers metered volumes prorated into each month*
3	Off-peak firm service/Interruptible transportation	SC12 Rate 2 / SC9 transport volume utilized during calendar month
4	Interruptible sales	SC12 Rate 1 sales utilized during the calendar month
5	Company use	Gas used by Company facilities
6(2+3+4+5)	Total accounted for	Total usage by all gas customers (excluding Plants)**
7 ((1-6)/1)	12-months loss percentage	12-months ending August data

* In most cases, the billing period for firm customer usage crosses over two calendar months. Therefore, for purposes of this calculation, firm customer usage will reflect a prorated volume based on the number of days in each of the two calendar months for the billing period for which the customer's meter is read.

** Includes marketer cash-outs.

B. SAMPLE CALCULATIONS FOR ILLUSTRATION PURPOSES ONLY

i. First Rate Year

Gas Loss and Unaccounted for RY1	2.9000%
Factor of Adjustment RY1 (1 / (1-LLF))	1.0299

The Factor of Adjustment Ratio for line losses will remain the same for RYs 2 and 3, unless the rolling 3-year average varies by +/- 5% from 2.9% or Line Loss Factor that is in effect.

ii. Second Rate Year Scenarios

For RY2, calculate the average of:

12-months ending 8/31/03 (per formula)	3.1000%
12-months ending 8/31/04 (assumed)	2.9000%
12-months ending 8/31/05 (assumed)	<u>3.0000%</u>
3-year average (36-months ending 8/31/05)	3.0000%

Note: If the average is greater than 3.045% or less than 2.755%, the Factor of Adjustment Ratio will be calculated using such average.

Since the calculated 3-year average remains within the variation band of +/- 5%, the Factor of Adjustment Ratio remains the same.

For RY2, the actual LLF percentage for the 12 months ending 8/31/05 would need to be greater than 3.135% or less than 2.2650% for the calculated 3-year average to establish a new Factor of Adjustment Ratio.

iii. Third Rate Year Scenarios

For RY3, calculate the average of:

12-months ending 8/31/04 (assumed)	2.9000%
12-months ending 8/31/05 (assumed)	3.0000%
12-months ending 8/31/06 (assumed)	<u>3.2000%</u>
3-year average (36-months ending 8/31/06)	3.0330%

Note: If the average is greater than 3.045% or less than 2.755%, the Factor of Adjustment Ratio will be calculated using such average.

Since the calculated 3-year average remains within the variation band of +/- 5%, the Factor of Adjustment Ratio remains the same.

For RY3, the actual LLF percentage for the 12 months ending 8/31/06 would need to be greater than 3.235% or less then 2.3650% for the calculated 3-year average to establish a new Factor of Adjustment Ratio.

APPENDIX E

STEAM RATE DESIGN

A. Allocation of Increased Revenue Requirement:

For the First Rate Year, the total increase in the Company's revenue requirement is \$49,600,000, including gross receipts taxes. In addition, there will be a decrease of \$1,473,000, excluding gross receipts taxes, related to the roll-in of the current level of State Income Taxes (SIT) to base rates. An overall pure base rate percentage increase will be developed by dividing the sum of the Rate Year revenue increase excluding gross receipts taxes plus the decrease related to the roll-in of the current level of SIT to base rates by the total Rate Year pure base revenues. The overall pure base rate percentage increase will then be applied to the SC 1, SC 2, SC 3, and SC 4 Rate Year pure base revenues to determine the Rate Year increased revenue requirement for each class.

B. State Income Taxes

Commencing October 1, 2004, SIT will be recovered through base rates. This will replace the current mechanism of recovering such tax expenses as a separate percentage increase in rates and charges. For under or over-collections of SIT related to periods prior to October 1, 2004, the Company will continue the current mechanism of surcharging or crediting such amounts through the separate percentage increase in rates and charges.

C. Rate Design Within Each Service Class

Starting with the Rate Year increases assigned to each service class, revenue ratios will be developed for each class by dividing the Rate Year pure base revenues by the pure base revenues for the historical period (*i.e.*, the twelve months ended June 30, 2003, the period for which detailed billing data were available). The Rate Year increases assigned to each class will then be divided by the applicable revenue ratios in each class to determine the rate increase applicable to each class for the historical test period. The rate increases will then be allocated within each class as follows:

1. The SC 1, SC 2, and SC 3 customer charges will be increased by the overall pure base rate percentage increase. The SC 1, SC 2 winter, and SC 3 winter block rates will be designed to recover the balance of the revenue requirement in each class.
2. SC 4 Back-Up/Supplementary Service and SC 6 Transportation Service consist of rates for customers who would otherwise be served under the SC 2 (Annual Power Service) and SC 3 (Apartment House Service) service classifications if they did not require back-up/supplementary service or transportation service. SC 4 Rate I and SC 6 Rate I are applicable to customers who would otherwise be served under SC 2. SC 4 Rate II and SC 6 Rate II are applicable to customers who would otherwise be served under SC 3. The Rate I and Rate II customer charges in each SC will be

set equal to the SC 2 and SC 3 customer charges, respectively. The Rate I and Rate II On-Peak and Off-Peak Contract Demand Charges and On-Peak and Off-Peak Usage Charges excluding the base cost of fuel will be increased by the overall pure base rate percentage increase described above.

The Second Rate Year revenue allocation and rate design will follow the same procedures as in the First Rate Year.

APPENDIX F

EAST RIVER REPOWERING PROJECT (ERRP)

Steam-Electric Cost Allocation

	Steam	Electric
Capital	Costs (equipment costs and construction costs; engineering, legal, and start-up costs; and overheads (including AFUDC)) associated with <ul style="list-style-type: none">• the heat recovery steam generators (HRSGs) and associated piping;• water treatment plant; and• steam and water interconnections.	All Other
Property Taxes	Associated with the HRSGs and associated piping, water treatment plant, and steam and water interconnections.	All Other
O&M	Processing Costs (water, chemicals, and water treatment plant labor)	All Other
Fuel	HRSG supplemental firing only	Gas turbines only

APPENDIX G

STEAM EARNINGS CALCULATION

For purposes of calculating potential colder than normal weather related earnings exclusion, the net revenue effect of steam sales related to colder than normal weather will be calculated as follows:

1. The normal weather period will be defined as the winter billing months of November – April, inclusive.
2. Normal weather for RY1 will be defined as the average conditions over the 30 years ended 2003 measured in terms of Heating Degree Days (HDDs). Normal weather for RY2 will be defined as the average conditions over the 30 years ended 2004 as measured in terms of HDDs. HDDs on a daily basis are defined as the number of degrees that the average 24-hour dry-bulb temperature differs from a 56 degrees Fahrenheit reference when the average 24-hour dry-bulb temperature is less than 56 degrees. When the average 24-hour dry-bulb temperature equals or exceeds 56 degrees there will be no HDDs. For example, if the 24-hr average dry bulb temperature for a day during the winter billing period is 40 degrees, there would be 16 HDDs for that day.
3. For each billing cycle in each of the aforementioned billing months, a unit (\$/Mlb) weather normalization adjustment charge or credit will be determined separately for each service classification. (i.e., SC 1, SC 2, and SC 3) based upon the formula noted below. A billing cycle refers to the number of days between meter readings.

The weather normalization adjustment formula is:

$$\frac{(\text{NHDD} - \text{AHDD}) * \text{MLBHDD} * \text{PBR}}{(\text{BLMLB} * \text{BC}) + (\text{MLBHDD} * \text{AHDD})}$$

Where:

NHDD -	Normal Heating Degree Days
AHDD -	Actual Heating Degree Days
MLBHDD -	Thousands of Pounds per Heating Degree Days*
PBR -	Penultimate Base Rate (exclusive of electric, water and chemicals cost)
BLMLB -	Base Load, Thousands of Pounds per Day*
BC -	Number of Days in the Billing Cycle

- * The MLBHDD and BLMLB factors on a service classification basis will be determined by regression analysis of actual monthly service classification sales divided by the average number of billing days in the month and by the associated number of customer billing in the month vs. the number of heating degree days per average number of billing days in each month over the prior winter season (i.e., the November- April billing months).
4. The determined unit charge/credit for each billing trip will be multiplied by the associated actual sales for that billing cycle. The net revenue effect of the credits and charges for each service classification will be netted at the end of the winter period as defined above. The net revenue impact (i.e., base revenue less base fuel less electric, water and chemical costs) per service classification will be summarized to determine the system net revenue impact.

APPENDIX H

RECONCILIATIONS AND TRUE-UPS

Consolidated Edison Company of NY, Inc.

Gas & Steam True-Up Targets
Case 03-G-1671 & 03-S-1672
(\$ million's)

	September 30,				
	2005	RY2 Update	2006	RY3 Update	2007
Gas Operations					
- Pension / OPEB (Policy Statement)	\$ (7.3)	\$ 1.7	\$ (5.6)	\$ 4.4	\$ (1.2)
- Property Taxes (+/- 2.5%)	95.6	6.7	102.3	7.2	109.5
- Major Capital Projects > \$180 million x 5% = \$9 million	-	-	-	-	-
- Pipeline Integrity (Charges from Keyspan)	1.0	-	1.0	-	1.0
- Environmental remediation costs	0.8	-	0.8	-	0.8
- Interference (Other Than Company Labor) (+/- 2.5%)	11.0	-	11.0	-	11.0
Steam Operations					
- Pension / OPEB (Policy Statement)	\$ (3.0)	\$ 0.7	\$ (2.3)		
- Property Taxes (+/- 2.5%)	46.6	2.7	49.3		
- Major Capital Projects > \$40 million x 5% = \$2 million	-	-	-	-	-
- Environmental remediation costs	0.3	-	0.3	-	0.3
- Interference (Other Than Company Labor) (+/- 2.5%)	1.9	-	1.9	-	1.9

APPENDIX I

PLANT ADDITIONS

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.
GAS PLANT BALANCES **
CASE 03-G-1671
SEPTEMBER 30, 2004 - SEPTEMBER 30, 2005
(\$ 000's)

	<u>PLANT IN SERVICE ***</u>	<u>ACCUMULATED DEPRECIATION ***</u>	<u>NET PLANT ***</u>
SEPTEMBER 30, 2004 *	\$ 1,344,970	\$ 354,637	\$ 990,333
OCTOBER 31, 2004	2,713,510	712,786	2,000,723
NOVEMBER 30, 2004	2,727,913	716,341	2,011,573
DECEMBER 3, 2004	2,741,374	719,907	2,021,467
JANUARY 32, 2005	2,747,987	723,154	2,024,833
FEBRUARY 29, 2005	2,755,956	726,413	2,029,543
MARCH 31, 2005	2,766,997	729,727	2,037,271
APRIL 30, 2005	2,775,576	733,011	2,042,564
MAY 31, 2005	2,785,467	735,848	2,049,618
JUNE 30, 2005	2,798,815	739,663	2,059,152
JULY 31, 2005	2,808,653	742,996	2,065,657
AUGUST 31, 2005	2,821,500	746,345	2,075,155
SEPTEMBER 30, 2005 *	<u>1,419,639</u>	<u>374,878</u>	<u>1,044,761</u>
TOTAL	<u>\$ 33,208,357</u>	<u>\$ 8,755,708</u>	<u>\$ 24,452,649</u>
AVERAGE	<u>\$ 2,767,363</u>	<u>\$ 729,642</u>	<u>\$ 2,037,721</u>
Capital Target (97.5%)			<u>\$ 1,986,778</u>

* ONE HALF OF ENDING BALANCE

** INCLUDES COMMON ALLOCATED

*** EXCLUDES GENERATOR PROJECTS

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.
GAS PLANT BALANCES **
CASE 03-G-1671
SEPTEMBER 30, 2005 - SEPTEMBER 30, 2006
(\$ 000's)

	<u>PLANT IN SERVICE ***</u>	<u>ACCUMULATED DEPRECIATION ***</u>	<u>NET PLANT ***</u>
SEPTEMBER 30, 2005 *	\$ 1,419,639	\$ 374,878	\$ 1,044,761
OCTOBER 31, 2005	2,866,347	753,154	2,113,192
NOVEMBER 30, 2005	2,884,000	756,596	2,127,403
DECEMBER 3, 2005	2,898,975	760,111	2,138,864
JANUARY 32, 2006	2,905,829	764,000	2,141,829
FEBRUARY 29, 2006	2,914,024	767,902	2,146,122
MARCH 31, 2006	2,925,600	771,865	2,153,735
APRIL 30, 2006	2,934,330	775,808	2,158,521
MAY 31, 2006	2,944,802	779,768	2,165,034
JUNE 30, 2006	2,959,484	783,741	2,175,743
JULY 31, 2006	2,969,452	787,700	2,181,752
AUGUST 31, 2006	2,982,376	791,679	2,190,697
SEPTEMBER 30, 2006 *	<u>1,497,898</u>	<u>397,864</u>	<u>1,100,034</u>
TOTAL	<u>\$ 35,102,756</u>	<u>\$ 9,265,070</u>	<u>\$ 25,837,687</u>
AVERAGE	<u>\$ 2,925,230</u>	<u>\$ 772,089</u>	<u>\$ 2,153,141</u>
Capital Target (97.5%)			<u>\$ 2,099,312</u>

* ONE HALF OF ENDING BALANCE

** INCLUDES COMMON ALLOCATED

*** EXCLUDES GENERATOR PROJECTS

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.
GAS PLANT BALANCES **
CASE 03-G-1671
SEPTEMBER 30, 2006 - SEPTEMBER 30, 2007
(\$ 000's)

	<u>PLANT IN SERVICE ***</u>	<u>ACCUMULATED DEPRECIATION ***</u>	<u>NET PLANT ***</u>
SEPTEMBER 30, 2006 *	\$ 1,497,898	\$ 397,864	\$ 1,100,034
OCTOBER 31, 2006	3,023,138	799,756	2,223,382
NOVEMBER 30, 2006	3,051,508	803,835	2,247,673
DECEMBER 3, 2006	3,067,541	808,010	2,259,531
JANUARY 32, 2007	3,074,263	811,596	2,262,667
FEBRUARY 29, 2007	3,082,406	815,192	2,267,214
MARCH 31, 2007	3,099,092	818,843	2,280,249
APRIL 30, 2007	3,107,945	822,450	2,285,495
MAY 31, 2007	3,118,670	826,071	2,292,599
JUNE 30, 2007	3,131,775	829,749	2,302,026
JULY 31, 2007	3,141,924	833,403	2,308,521
AUGUST 31, 2007	3,155,241	837,072	2,318,169
SEPTEMBER 30, 2007 *	<u>1,584,591</u>	<u>420,403</u>	<u>1,164,188</u>
TOTAL	<u>\$ 37,135,994</u>	<u>\$ 9,824,244</u>	<u>\$ 27,311,750</u>
AVERAGE	<u>\$ 3,094,666</u>	<u>\$ 818,687</u>	<u>\$ 2,275,979</u>
Capital Target (97.5%)			<u>\$ 2,219,080</u>

* ONE HALF OF ENDING BALANCE

** INCLUDES COMMON ALLOCATED

*** EXCLUDES GENERATOR PROJECTS

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.
STEAM PLANT BALANCES **
CASE 03-S-1672
SEPTEMBER 30, 2004 - SEPTEMBER 30, 2005
(\$ 000's)

	<u>PLANT IN SERVICE</u>	<u>ACCUMULATED DEPRECIATION</u>	<u>NET PLANT</u>
SEPTEMBER 30, 2004 *	\$ 420,624	\$ 117,386	\$ 303,238
OCTOBER 31, 2004	845,888	234,211	611,677
NOVEMBER 30, 2004	850,371	233,659	616,712
DECEMBER 3, 2004	850,582	230,191	620,391
JANUARY 32, 2005	853,867	231,020	622,847
FEBRUARY 28, 2005	857,793	231,855	625,938
MARCH 31, 2005	861,099	232,699	628,399
APRIL 30, 2005	864,404	233,552	630,852
MAY 31, 2005	868,189	234,413	633,775
JUNE 30, 2005	872,340	235,284	637,056
JULY 31, 2005	876,482	236,221	640,261
AUGUST 31, 2005	882,525	237,170	645,355
SEPTEMBER 30, 2005 *	<u>443,096</u>	<u>119,061</u>	<u>324,036</u>
TOTAL	<u>\$ 10,347,259</u>	<u>\$ 2,806,723</u>	<u>\$ 7,540,536</u>
AVERAGE	<u>\$ 862,272</u>	<u>\$ 233,894</u>	<u>\$ 628,378</u>
Capital Target (97.5%)			<u>\$ 612,669</u>

* ONE HALF OF ENDING BALANCE

** EXCLUDES ERRP

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.
STEAM PLANT BALANCES **
CASE 03-S-1672
SEPTEMBER 30, 2005 - SEPTEMBER 30, 2006
(\$ 000's)

	<u>PLANT IN SERVICE</u>	<u>ACCUMULATED DEPRECIATION</u>	<u>NET PLANT</u>
SEPTEMBER 30, 2005 *	443,096	119,061	\$324,036
OCTOBER 31, 2005	889,860	239,082	650,778
NOVEMBER 30, 2005	896,403	240,049	656,354
DECEMBER 3, 2005	900,215	241,030	659,185
JANUARY 32, 2006	903,778	242,012	661,766
FEBRUARY 28, 2006	907,876	243,002	664,874
MARCH 31, 2006	911,455	244,000	667,456
APRIL 30, 2006	915,035	245,005	670,030
MAY 31, 2006	918,615	246,018	672,597
JUNE 30, 2006	922,495	247,039	675,456
JULY 31, 2006	926,500	248,068	678,432
AUGUST 31, 2006	930,155	249,104	681,050
SEPTEMBER 30, 2006 *	<u>466,905</u>	<u>125,225</u>	<u>341,680</u>
TOTAL	\$ 10,932,387	\$ 2,928,695	\$ 8,003,692
AVERAGE	<u>\$ 911,032</u>	<u>\$ 244,058</u>	<u>\$ 666,974</u>
Capital Target (97.5%)			<u>\$ 650,300</u>

* ONE HALF OF ENDING BALANCE

** EXCLUDES ERRP

APPENDIX J

ESCO/MARKETER ISSUES

Applicable to Firm Customers:

1. Marketer Assignment Proposal.

On or before April 1, 2005, Con Edison will propose changes to its gas tariff and Gas Sales and Transportation Operating Procedures (“GTOP”) to institute a marketer assignment program, under which the Company would have the right to use or acquire capacity and/or bundled sales used by marketers to satisfy the primary point delivery obligation.¹ Prior to making the tariff filing, the Company will convene a meeting(s) with Staff and marketers to discuss the program terms and conditions the Company is contemplating, provided, however, that Con Edison may include in its tariff and GTOP filings such terms and conditions as the Company deems necessary and appropriate. The Signatory Parties reserve their rights to comment on the proposed tariff changes.

In order for marketers and Con Edison to have sufficient time to make capacity arrangements for the 2005/2006 Winter period, the Signatory Parties propose that the new program take effect on November 1, 2005 if the proposed tariff changes are made effective on or before

¹ The Signatory Parties acknowledge that a tariff filing on this matter has been made by Orange and Rockland Utilities, Inc. in Case No. 02-G-1553.

August 1, 2005. Otherwise, the Signatory Parties propose that the program take effect during the first Winter Period following the August 1st on which the proposed tariff changes are in effect.

The implementation of a marketer assignment program does not negate the need or the right of Con Edison to maintain capacity reserves as are necessary to maintain reliability and to recover the costs of such capacity through the GCF and/or MRA.

2. Cash-Out Index Price.

The Company will modify its tariff and GTOP to reflect a change in the cash-out mechanism for marketers serving monthly-metered firm customers. This change will incorporate a tiered structure that will (1) create an end-of-the-month tolerance band of plus or minus 2% for cumulative imbalances that would be cashed out at the midpoint of the first-of-the-month Transco Zone 6 City-Gate index as reported in the publication *Platt's Gas Daily* ("Gas Daily"); and (2) establish cash-out rates for imbalances above 2% based on a simple average of the Transco Zone 6 City-Gate index midpoint prices as reported in *Gas Daily* for each day of the month in which the imbalance occurred. This new structure replaces Section III pages 15-16 Subsection 3 "Cash-out Charge/Credit" in the Company's GTOP.

Modifications to Con Edison's Transportation Customer Information System ("TCIS") are required in order to implement a change of the cash-out index price. Due to the necessity of these modifications, Con Edison shall not be required to implement the foregoing cash-out index price revisions until on or after April 1, 2005. Con Edison shall be entitled to recover the actual incremental costs of such modifications from the customers' share of Non-Firm Revenues. In the event the customers' share of Non-Firm Revenues is not adequate for such recovery, the Company will defer the costs for future recovery.

3. Operational Flow Order (“OFO”) Issuance.

The Company will modify its tariff and/or GTOP to include language that establishes parameters for issuing separate OFOs for over- and under- deliveries for marketers serving firm customers.

Applicable to Interruptible Customers (Daily Metered):

1. Cash-out Index Price.

The Company will modify its current method of cash-out for end-of-month surplus and deficit quantities for marketers serving daily-metered interruptible customers to utilize the simple average of the daily midpoint prices of the Transco Zone 6 City-Gate index as reported in *Gas Daily* for the month in the which the imbalances occurred to cash out deficit imbalances and the simple average of daily midpoint prices of the Transco Station 65 Production Area index as reported in *Gas Daily* for the month in which the imbalances occurred to cash out surplus imbalances. The Company will amend its tariff and/or GTOP to implement these changes effective November 1, 2004. This new structure replaces Section IV pages 11-12 subsection 3 “Cash-out Charge/Credit” in the Company’s GTOP.

2. Price Index Multiplier Mechanism (“PIM”).

The Company will phase in a change from its current three-tier Price Index Multiplier (“PIM”) mechanism to a four-tier PIM mechanism applicable to imbalances for marketers serving daily-metered interruptible customers. The current three-tier PIM mechanism will remain in place for the First Rate Year and be replaced by a four-tier PIM mechanism beginning the start of the Second Rate Year. Con Edison’s phase in of the four-tier PIM mechanism will provide marketers time to adjust their operations to incorporate the change.

Con Edison shall be entitled to recover the actual incremental costs of such modifications from its customers' share of Non-Firm Revenues. In the event the customers' share of Non-Firm Revenues is not adequate for such recovery, the Company will defer the costs for future recovery.

The PIM tiers for each of the Rate Years will be as follows:

Rate Year 1

Surplus Imbalances:

0-10% @ 100% of Price Index
>10-20% @ 90% of Price Index
above 20% @ 80% of Price Index

Deficit Imbalances:

0-10% @ 100% of Price Index
>10-20% @ 110% of Price Index
above 20% @ 120% of Price Index

Rate Years 2 and 3

Surplus Imbalances:

0-10% @ 100% of Price Index
>10-15% @ 90% of Price Index
>15-20% @ 85% of Price Index
above 20% @ 70% of Price Index Summer; 60% of Price Index Winter

Deficit Imbalances:

0-10% @ 100% of Price Index
>10-15% @ 110% of Price Index
>15-20% @ 115% of Price Index
above 20% @ 130% of Price Index – Summer; 140% of Price Index Winter

3. OFO Issuance

The Company will modify its tariff and/or GTO to include language that establishes parameters for issuing separate OFOs for over- and under deliveries- for marketers serving interruptible customers.

4. Automatic Netting of Imbalances.

The Company, the Signatory Parties and interested marketers agree to work together to develop an automatic netting of imbalances approach applicable to marketers serving daily-metered interruptible gas customers that would be implemented by November 1, 2005. During the development phase of an automatic netting proposal, the Company will: (1) meet with marketers serving interruptible and off-peak firm customers in order to garner their input on potential approaches; (2) review existing LDC automatic netting programs; (3) determine the impact of automatic netting proposals on Con Edison's existing balancing programs and on its customers; and (4) file a report with the Commission on or before February 1, 2005, outlining the Company's proposal, along with implementing tariff language for automatic netting of imbalances for marketers serving daily-metered interruptible and off-peak firm gas transportation customers. The Automatic Netting Proposal will be designed to be an additional means available to marketers serving daily-metered interruptible and off-peak firm gas transportation customers and not as a replacement for any existing programs; provided, however, that the Company reserves all of its rights to propose changes to its existing balancing and imbalance trading programs and the Signatory Parties reserve all of their rights to participate in a proceeding(s) established to consider such changes and to take positions in furtherance of their respective interests. In the event such a proposal is initiated during the term of this Proposal, Con Edison shall be entitled to recover the actual costs of such modifications from its customers' share of Non-Firm Revenues. In the event the customers' share of Non-Firm Revenues is not adequate for such recovery, the Company will defer the costs for future recovery.

5. Imbalance Issues

The Signatory Parties will continue to discuss the following issues, taking into consideration, among other factors, system requirements, costs, and timing of possible implementation:

- a. the feasibility of trading of imbalances between (i) interruptible daily metered customer pools and (ii) power generation customers; and
- b. the applicability of using the same and/or different price indices for resolution of cash-out of imbalances for daily-metered, non-firm pools.